PB87-155057

RCRA (Resource Conservation and Recovery Act) Final Authorization Guidance Manual

(U.S.) Environmental Protection Agency
Washington, DC

10 Jun 83

U.S. Department of Commerce
National Technical Information Service
NTIS

PB87-155057

RCRA
Final Authorization Guidance Manual

EPA

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U.S. DEPARTMENT OF COMMERCE
NATIONAL TECHNICAL
INFORMATION SERVICE
SPRINGFIELD, VA 22161

50272-101

REPORT DOCUMENTATION PAGE

1. REPORT NO.

2.

3. Recipient's Accession No. PB87-155057/AS

4. Title and Subtitle

RCRA Final Authorization Guidance Manual

5. Report Date

June 10, 1983

6.

7. Author(s)

U.S. EPA Staff

8. Performing Organization Rept. No.

9. Performing Organization Name and Address

United States Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

10. Project/Task/Work Unit No.

11. Contract(C) or Grant(G) No.

(C)

(G)

12. Sponsoring Organization Name and Address

United States Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

13. Type of Report & Period Covered

14.

15. Supplementary Notes

None

16. Abstract (Limit: 200 words)

This document provides guidance regarding final authorization of State Hazardous Waste programs for the pre-HSWA RCRA program. The manual establishes a process and schedule for State Authorization applications, and provides detailed guidance on what State programs must contain in orderto qualify for final authorization. The primary audience is U.S. EPA Headquarters and Regional offices and also State agencies, but public requests have also been received so they are included in that broad audience.

17. Document Analysis a. Descriptors

b. Identifiers/Open-Ended Terms

c. COSATI Field/Group

18. Availability Statement

Unclassified

19. Security Class (This Report)

Unclassified

20. Security Class (This Page)

Unclassified

21. No. of Pages

22. Price

(See ANSI-Z39.18) See Instructions on Reverse OPTIONAL FORM 272 (4-77)
(Formerly NTIS-35)
Department of Commerce

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON D.C. 20460

10 JUN 1983

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

MEMORANDUM

SUBJECT: RCRA Final Authorization Guidance Manual

FROM: Lee M. Thomas
Acting Assistant Administrator for
Solid Waste and Emergency Response

TO: Regional Administrators
Regions I-X

I am pleased to transmit for your immediate use the attached copy of EPA's "RCRA Final Authorization Guidance Manual". Under separate cover we are providing additional copies to your Hazardous Waste Division for transmittal to the State agency Directors in your Region.

This manual is the result of many months of work and reflects the input and agreement of several key contributors to its development, including representatives of EPA's Regional Offices, State agency personnel working through the Association of State and Territorial Solid Waste Management Officials (ASTSWMO), and other offices in EPA Headquarters, especially the Agency's Office of General Counsel. This broad-based participation provides the best assurance that the final authorization process and policies in the attached manual include all feasible avenues to increase flexibility while assuring the quality of authorized programs.

The Office of Management and Budget (OMB) has recently cleared the manual for immediate use. Also, EPA's Office of Legal and Enforcement Counsel has concurred with its contents. Therefore, we can immediately begin using the manual to accelerate the final authorization of State programs.

Reflecting the cooperative efforts which went into its development, the manual should be of substantial assistance to the States and EPA in developing and reviewing applications for program authorization. It provides the clearest statements possible concerning the Agency's authorization policies and processes. Availability of the manual should enable our Regional Offices and the States to more agressively pursue final authorization and to work together to accelerate State program development and the preparation and submission of applications. This manual should be used to expedite the individual State authorization strategies that were developed by your staff in accordance with the guidance in my April 29 memorandum to you.

I strongly encourage immediate use of the RCRA Final Authorization Manual as a means to quicken the pace of the final authorization of State programs. I will do all that is within my power to assure that EPA adheres to the review schedules in the manual. Likewise, it is critical that qualified States develop and submit their applications as quickly as possible.

We look forward to receiving an application from each State and will work hard to help qualified States clear this last hurdle to final authorization.

Attachment

cc: Air & Hazardous Materials Division Directors, Regions I-X
Solid Waste Branch Chiefs, Regions I-X
A. James Barnes, Acting General Counsel
Courtney Price, Special Counsel for Enforcement

RCRA FINAL AUTHORIZATION GUIDANCE MANUAL

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PREFACE

Goals for Final Authorization

Final authorization of State hazardous waste programs is one of EPA's highest priorities. Our goal is to approve as many qualified States for final authorization as possible by the end of the statutory period for interim authorization in January 1985. Over two-thirds of the States have already received interim authorization since November 1980. We can improve on that record for final authorization by continuing the cooperative partnership among the States and territories, EPA Regions, and EPA Headquarters.

The Final Authorization Guidance Manual establishes a process and schedule which should enable us to meet this goal. The Manual provides for an early review step for State statutes, so that interested States can receive an initial analysis of their program authority, with time left to make necessary program changes. The schedule for review of State applications commits EPA to expeditious action. The entire process is directed at making final authorization decisions before January 1985, when interim authorization expires in all States. All States are urged to submit their applications as early as possible.

Statutory Requirements for Final Authorization

The Resource Conservation and Recovery Act (RCRA) establishes a different and more difficult test for States applying for final authorization than was required for interim authorization. States applying for interim authorization must have programs "substantially equivalent" to the Federal program. State programs applying for final authorization are subject to the following statutory standards:

(1) They must be "equivalent" to the Federal program (RCRA Section 3006);

(2) They may not impose any requirements "less stringent" than the Federal requirements (RCRA Section 3009);

(3) They must be "consistent" with the Federal program and other State programs (RCRA Section 3006);

(4) They may, however, impose requirements which are "more stringent" than those imposed by Federal regulations (RCRA Section 3009);

(5) They must follow specific procedures for public "notice and hearing" in the permitting process (RCRA Section 7004); and

(6) They must "provide adequate enforcement" (RCRA Section 3006).

In reviewing State applications, EPA is required to determine that States satisfy these six statutory standards. While these requirements are discussed in more detail in the chapters that follow, this Preface highlights our approach to carrying out the mandate of RCRA in these areas.

Equivalent and No Less Stringent Programs

RCRA §3006(b) requires that State final authorization programs be "equivalent" to the Federal Program. RCRA §3009 prohibits States from imposing requirements which are "less stringent that those authorized under this subtitle."

Taken together, these two sections mean that all States applying for final authorization must demonstrate that their requirements are equivalent to and at least as stringent as the Federal requirements. This does not mean that States have to implement their programs in exactly the same way that EPA does. State provisions can differ as long as they address all of the Federal program requirements and include requirements which are equivalent to and at least as stringent as the comparable Federal program requirements. This manual provides guidance on necessary State authority to meet these tests.

Consistent and More Stringent Programs

Section 3009 does allow States to impose requirements "which are more stringent than those imposed by [RCRA] regulations." Therefore, States may add requirements which provide more rigorous control of hazardous waste activities than EPA's regulations or which are broader in scope. In addition, State programs need not adopt those Federal regulations that serve to exempt persons from certain requirements or that allow increased flexibility.

However, this provision must be read in conjunction with RCRA §3006(b), which requires that State final authorization programs be "consistent with the Federal or State programs applicable in other States." Pursuant to 40 CFR §271.4, EPA will focus its review of consistency on State program provisions which tend to impede the flow of interstate commerce or otherwise interfere with the national regulatory scheme established by RCRA. Accordingly, EPA will view as inconsistent those aspects of State programs which: (A) operate as a ban on the interstate movement of hazardous waste (e.g., importation bans); (B) prohibit treatment, storage or disposal of hazardous waste within that State, if the prohibition has no basis in human health or environmental protection; or (C) do not meet the manifest system requirements of the Federal program.

Notice and Hearing in the Permit Process

RCRA §7004(b)(2) stipulates that no State permit program may be authorized unless it "provides for the notice and hearing required by [this] paragraph." Because of this clear language, 40 CFR §§124.10 and 124.12 require that States must provide notice of their intent to issue a permit through publication in "major local newspapers of general circulation," broadcast such notice over local radio stations, and provide written notice to certain State and local government agencies. Further, the State must provide for at least a 45 day public comment period. The State is also required by §7004 to hold an informal public hearing if it receives a request for a hearing during the comment period.

Adequate Enforcement

RCRA §3006(b) requires that State final authorization programs "provide adequate enforcement of compliance with the requirements of this subtitle." Because the adequacy of State enforcement programs is explicitly emphasized by Congress, EPA must pay special attention to the review of State enforcement authority.

EPA will examine the inspection, enforcement remedy, and penalty authorities of State programs in light of the provisions of RCRA §3007 and 40 CFR §§271.15 and 271.16. In particular, States will need to provide for both civil and criminal penalties, and must have the authority to levy such penalties in the amount of at least $10,000 per day. States are also required to provide for public participation in the enforcement process, pursuant to 40 CFR §271.16(d).

Conclusion

We look forward to a close working relationship between EPA and the States in the period ahead and to the successful introduction of the RCRA final authorization program. Using the process and guidelines established in this Manual, we can fulfill the important responsibilities placed on us by the American public for an effective national program to manage hazardous wastes.

CHAPTER 1.1

INTRODUCTION

The Resource Conservation and Recovery Act of 1976, (RCRA), as amended, provides for authorization of State hazardous waste programs. This Guidance Manual has been developed to provide direction to States in developing applications for final authorization and also sets forth the internal EPA procedures which will be used to process applications. Because this Manual is intended only to provide guidance concerning the implementation and interpretation of EPA's Part 271 regulations, EPA has concluded that rule-making procedures are not required under the Administrative Procedure Act, 5 U.S.C. §553.

RCRA provides for two stages of State hazardous waste authorization: interim and final authorization. A State may receive interim authorization if its program is substantially equivalent to the Federal program. Interim authorization is a temporary mechanism that is intended to promote continued State participation in hazardous waste management while encouraging States to develop programs that are fully equivalent to the Federal program. Now that all of the major components of the Federal hazardous waste program are in place, final authorization is available to State programs. To achieve final authorization a State must demonstrate that its program meets the six statutory tests that are described in this Manual and that are embodied in the regulatory requirements for final authorization in 40 CFR Part 271, Subpart A. There is no deadline for applying for final authorization. A State does not have to obtain interim authorization prior to receiving final authorization. However, interim authorization expires on January 26, 1985. Any State with interim authorization must obtain final authorization by this date or the program will revert to EPA. This guidance Manual explains how to prepare the required final authorization application materials.

This Manual is divided into two sections. The first, "General", gives an overview of the RCRA hazardous waste program, State program requirements for final authorization and information on EPA's procedures for review of applications for final authorization. The second is the "State Submittal Guidance" which provides specific instructions for the State in developing its application for final authorization. The Appendices contain guidance documents and other items that are pertinent to the development and review of State applications for final authorization.

The Federal regulations in 40 CFR Part 271 Subpart A, promulgated pursuant to RCRA, require that State final authorization applications contain the following:

1. Governor's letter requesting State program approval.
2. A Program Description which explains the program the State proposes to administer together with any forms to be used to administer the program under State law.

3. A Statement from the State Attorney General (or the attorney for those State or interstate agencies which have independent legal counsel) that the laws of the State or interstate compact do provide adequate authority to carry out the program the State proposes to administer.

4. A Memorandum of Agreement that provides for coordination and cooperation between the State Director and the U.S. EPA Regional Administrator regarding the administration and enforcement of the authorized State regulatory program as part of the national hazardous waste management program.

5. Copies of all applicable State statutes and regulations, including those governing State administrative procedures and interstate compacts, if relied on.

6. Documentation of public participation activities (i.e., notice and opportunities for comment on the State program prior to submission of the application to EPA).

The chapters in the second section of this manual provide guidance, example documents, and models for these authorization application elements.

CHAPTER 1.2

DEFINITIONS

Terms frequently used in this manual are defined below. Other items are defined in 40 CFR Parts 260 and 270.

Action Memorandum is a transmittal memorandum prepared by the EPA Regional Office for the purposes of obtaining signatures from the appropriate concurring EPA Headquarters offices.

Annual State Grant Work Program is an agreement negotiated annually between the State and EPA Regional Office delineating the work activities to be completed by the State as a condition of the RCRA grant for that year.

Application Approval Process is the procedure by which applications for final authorization will be reviewed and determinations made within each Regional Office and Headquarters.

Complete Application is the State's official application that has been determined by EPA to be complete.

Draft Application is a preliminary version of the official application.

Headquarters Review Team is an established group of EPA staff representing the concurring Headquarters offices (i.e., Office of Solid Waste, Office of General Counsel, Office of Enforcement Counsel, and Office of Waste Programs Enforcement) responsible for reviewing the draft applications and complete applications.

Headquarters Review Team Leader is responsible for coordinating the efforts of the Headquarters Review Team and coordinates the transmittal of a single set of written review comments to the State Coordinator.

Official Application is the formal State application for final authorization submitted to EPA by the Governor.

Phase I of Interim Authorization is based on that phase of the Federal Hazardous Waste Management Program commencing on November 19, 1980, and encompasses the identification and listing of hazardous wastes, the control of generators and transporters, and interim status standards for treatment, storage, and disposal facilities (40 CFR Parts 260, 261, 262, 263, and 265).

Phase II of Interim Authorization is based on that phase of the Federal Hazardous Waste Management Program commencing in July of 1981 and encompasses permitting procedures and standards for hazardous waste treatment, storage, and disposal facilities (40 CFR Parts 270, 124, and 264).

Pre-Application Statutory Review is the optional EPA review of State statutes prior to the State's submission of a draft or official application.

Regional Liaison is the Headquarters Review Team member that is designated to review and coordinate comments for all State applications from a particular Region. The Regional Liaison should maintain day-to-day contact with the State Coordinator.

Regional Workgroup is an established team of EPA Regional Office staff responsible for reviewing the draft application and complete application. The Workgroup must represent all of the concurring Divisions and Offices (i.e., Office of Regional Counsel, and Air and Waste Management Division) within the Regional Office.

State Coordinator is the EPA Regional Office contact responsible for coordinating and consolidating the review comments generated by the Regional Workgroup and the Headquarters' Review Team on the State submittal. The State Coordinator should maintain day-to-day contact with the Regional Liaison.

CHAPTER 1.3

STATE PROGRAM REQUIREMENTS FOR FINAL AUTHORIZATION

INTRODUCTION

RCRA establishes the basic standards that State hazardous waste programs must meet in order to qualify for final authorization. EPA further interpreted these statutory requirements by promulgating regulations at 40 CFR Part 271. The regulations provide detailed requirements that State programs must meet and set forth the form and content of the State's application for final authorization. In reviewing State applications, EPA is required to determine that States satisfy these statutory and regulatory standards.

The purpose of this chapter is to provide more specific guidance concerning how State programs can satisfy the final authorization requirements. Appropriate portions of the final authorization regulations are reproduced here to present the State program requirements. In many cases, the regulatory requirements are explicit and need no further explanation. For other regulatory provisions, additional discussion is provided in the text of this chapter to more clearly define those State program features that will be acceptable or necessary for final authorization.

A summary of the six RCRA standards that State programs must meet for final authorization is presented in Table 1. Key EPA regulations generally corresponding to these statutory standards are identified in the table. The table also indicates the appropriate section(s) of the State's application where the State should demonstrate that it satisfies the RCRA requirements. Chapters 2.2-2.4 in the second section of this manual describe how the State's application should address these standards.

Table 1

Requirements for Final Authorization

RCRA Standard	EPA Regulations (40 CFR)	State Application
1. Equivalent Program - §3006(b)	271.9-13	Program Description, AG Statement and MOA
2. No Less Stringent Program - §3009	271.9-14	
3. Consistent Program - §3006(b)	271.4	Program Description and AG Statement
4. More Stringent Program - §3009	Not Applicable	Program Description
5. Adequate Enforcement - §3006(b); §7004(b)(1)	271.15-16	Program Description, AG Statement and MOA
6. Notice and Hearing in the Permit Process - §7004(b)(1) and (2)	271.14	Program Description, AG Statement and MOA

RCRA STANDARD #1 AND RCRA STANDARD #2 - EQUIVALENT AND NO LESS STRINGENT PROGRAM

1. Requirements for Identification and Listing - §271.9

§ 271.9 Requirements for identification and listing of hazardous wastes.

The State program must control all the hazardous wastes controlled under 40 CFR Part 261 and must adopt a list of hazardous wastes and set of characteristics for identifying hazardous wastes equivalent to those under 40 CFR Part 261.

The universe of wastes which the State controls must include all the hazardous wastes controlled by the Federal program. The State must adopt a list of hazardous wastes and a set of characteristics for identifying hazardous wastes. The State's list and characteristics need not be identical to EPA's as long as the State can demonstrate that it regulates all of the wastes controlled by EPA. To the extent that the State's method for identifying and listing wastes differs from the Federal approach, the State's demonstration of equivalent coverage becomes more difficult, particularly where the State's set of characteristics is different. A State is free to control additional wastes if it desires. Furthermore, the State is not required to adopt an equivalent "delisting" mechanism in order to obtain final authorization (see "More Stringent Program" discussion on page 1.3-10).

2. Requirements for Generators - §271.10

§ 271.10 Requirements for generators of hazardous waste.

(a) The State program must cover all generators covered by 40 CFR Part 262. States must require new generators to contact the State and obtain an EPA identicfiation number before they perform any activity subject to regulation under the approved State hazardous waste program.

(b) The State shall have authority to require and shall require all generators to comply with reporting and recordkeeping requirements equivalent to those under 40 CFR 262.40 and 262.41. States must require that generators keep these records at least 3 years.

(c) The State program must require that generators who accumulate hazardous wastes for short periods of time comply with requirements that are equivalent to the requirements for accumulating hazardous wastes for short periods of time under 40 CFR 262.34.

(d) The State program must require that generators comply with requirements that are equivalent to the requirements for the packaging, labeling, marking, and placarding of hazardous waste under 40 CFR 262.30 to 262.33, and are consistent with relevant DOT regulations under 49 CFR Parts 172, 173, 178 and 179.

(e) The State program shall provide requirements respecting international shipments which are equivalent to those at 40 CFR 262.50, except that advance notification of international shipments, as required by 40 CFR 262.50(b)(1), shall be filed with the Administrator. The State may require that a copy of such advance notice be filed with the State Director, or may require equivalent reporting procedures.

Note.—Such notices shall be mailed to the Office of International Activities (A-106), United States Environmental Protection Agency, Washington, D.C. 20460.

(f) The State must require that all generators of hazardous waste who transport (or offer for transport) such hazardous waste off-site:

(1) Use a manifest system that ensures that interstate and intrastate shipments of hazardous waste are designated for delivery, and, in the case of intrastate shipments, are delivered to facilities that are authorized to operate under an approved State program or the Federal program;

(2) Initiate the manifest and designate on the manifest the storage, treatment, or disposal facility to which the waste is to be shipped;

(3) Ensure that all wastes offered for transportation are accompanied by the manifest, except in the case of shipments by rail or water specified in 40 CFR 282.23 (c) and (d) and § 282.20 (e) and (f). The State program shall provide requirements for shipments by rail or water equivalent to those under 40 CFR § 282.23 (c) and (d) and § 283.20 (e) and (f).

(4) Investigate instances where manifests have not been returned by the owner or operator of the designated facility and report such instances to the State in which the shipment originated.

(g) In the case of interstate shipments for which the manifest has not been returned, the State program must provide for notification to the State in which the facility designated on the manifest is located and to the State in which the shipment may have been delivered (or to EPA in the case of unauthorized States).

(h) The State must follow the Federal manifest format (40 CFR 282.21) and may supplement the format to a limited extent subject to the consistency requirements of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.).

The State must control all the generators that would be controlled by the Federal program. The state must have a manifest system that meets the requirements of §271.10(f) - (h), including the requirement that generators be held responsible for exception reporting. However, this does not preclude the State agency from tracking manifests as it deems necessary as part of its enforcement program.

3. Requirements for Transporters - §271.11

§ 271.11 Requirements for transporters of hazardous wastes.

(a) The State program must cover all transporters covered by 40 CFR Part 283. New transporters must be required to contact the State and obtain an EPA identification number from the State before they accept hazardous waste for transport.

(b) The State shall have the authority to require and shall require all transporters to comply with recordkeeping requirements equivalent to those found at 40 CFR 283.22. States must require that records be kept at least 3 years.

(c) The State must require the transporter to carry the manifest during transport, except in the case of shipments by rail or water specified in 40 CFR 283.20 (e) and (f) and to deliver waste only to the facility designated on the manifest. The State program shall provide requirement for shipments by rail or water equivalent to those under 40 CFR 283.20 (e) and (f).

(d) For hazardous wastes that are discharged in transit, the State program must require that transporters notify appropriate State, local, and Federal agencies of such discharges, and clean up such wastes, or take action so that such wastes do not present a hazard to human health or the environment. These requirements shall be equivalent to those found at 40 CFR 283.30 and 283.31.

The State must control all transporters that are covered in the Federal program.

4. Requirements for Facilities - §271.12

§ 271.12 Requirements for hazardous waste management facilities.

The State shall have standards for hazardous waste management facilities which are equivalent to 40 CFR Parts 264 and 266. These standards shall include:

(a) Technical standards for tanks, containers, waste piles, incineration, chemical, physical and biological treatment facilities, surface impoundments, landfills, and land treatment facilities;

(b) Financial responsibility during facility operation;

(c) Preparedness for and prevention of discharges or releases of hazardous waste; contingency plans and emergency procedures to be followed in the event of a discharge or release of hazardous waste;

(d) Closure and post-closure requirements including financial requirements to ensure that money will be available for closure and post-closure monitoring and maintenance;

(e) Groundwater monitoring;

(f) Security to prevent unauthorized access to the facility;

(g) Facility personnel training;

(h) Inspections, monitoring, recordkeeping, and reporting;

(i) Compliance with the manifest system, including the requirements that facility owners or operators return a signed copy of the manifest to the generator to certify delivery of the hazardous waste shipment;

(j) Other requirements to the extent that they are included in 40 CFR Parts 264 and 266.

The State must have technical permitting standards that are equivalent to and no less stringent than the Federal standards at Part 264. For each requirement in Part 264, the State needs to demonstrate that it has a regulatory counterpart that is at least as stringent as the Federal provision. Due to the nature of the financial responsibility requirements of Subpart H, separate guidance has been provided in Appendix B which presents acceptable financial mechanisms for final authorization.

5. Requirements for Permitting - §§271.13 and .14

§ 271.13 Requirements with respect to permits and permit applications.

(a) State law must require permits for owners and operators of all hazardous waste management facilities required to obtain a permit under 40 CFR Part 270 and prohibit the operation of any hazardous waste management facility without such a permit, except that States may, if adequate legal authority exists, authorize owners and operators of any facility which would qualify for interim status under the Federal program to remain in operation until a final decision is made on the permit application. When State law authorizes such continued operation it shall require compliance by owners and operators of such facilities with standards at least as stringent as EPA's interim status standards at 40 CFR Part 265.

(b) The State must require all new HWM facilities to contact the State and obtain an EPA identification number before commencing treatment, storage, or disposal of hazardous waste.

(c) All permits issued by the State shall require compliance with the standards adopted by the State under § 271.12.

(d) All permits issued under State law prior to the date of approval of final authorization shall be reviewed by the State Director and modified or revoked and reissued to require compliance with the requirements of this Part.

§ 271.14 Requirements for permitting.

All State programs under this Subpart must have legal authority to implement each of the following provisions and must be administered in conformance with each; except that States are not precluded from omitting or modifying any provisions to impose more stringent requirements:

(a) Section 270.1(c)(1)—(Specific inclusions);

(b) Section 270.4—(Effect of permit);

(c) Section 270.5—(Noncompliance reporting);

(d) Section 270.10—(Application for a permit);

(e) Section 270.11—(Signatories);

(f) Section 270.12—(Confidential information);

(g) Section 270.13—(Contents of Part A);

(h) Sections 270.14–.29—(Contents of Part B);

[Note.—States need not use a two part permit application process. The State application process must, however, require information in sufficient detail to satisfy the requirements of §§ 270.13–.29.]

(i) Section 270.30—(Applicable permit conditions);

(j) Section 270.31—(Monitoring requirements);

(k) Section 270.32—(Establishing permit conditions);

(l) Section 270.33—(Schedule of compliance);

(m) Section 270.40—(Permit transfer);

(n) Section 270.41—(Permit modification);

(o) Section 270.43—(Permit termination);

(p) Section 270.50—(Duration);

(q) Section 270.60—(Permit by rule);

(r) Section 270.61—(Emergency permits);

(s) Section 270.64—(Interim permits for UIC wells);

(t) Section 124.3(a)—(Application for a permit);

(u) Section 124.5 (a), (c), (d), (Modification of permits);

(v) Section 124.6 (a), (d), and (e)—(Draft permit);

(w) Section 124.8—(Fact sheets);

(x) Section 124.10 (a)(1)(ii), (a)(1)(iii), (a)(1)(v), (b), (c), (d), and (e)—(Public notice);

(y) Section 124.11—(Public comments and requests for hearings);

(z) Section 124.12(a)—(Public hearings); and

(aa) Section 124.17 (a) and (c)—(Response to comments).

[Note.—States need not implement provisions identical to the above listed provisions. Implemented provisions must, however, establish requirements at least as stringent as the corresponding listed provisions. While States may impose more stringent requirements, they may not make one requirement more lenient as a tradeoff for making another requirement more stringent; for example, by requiring that public hearings be held prior to issuing any permit while reducing the amount of advance notice of such a hearing.]

All facilities that would be required to receive RCRA permits under the Federal program must be required to receive permits from the State. Also, those facilities without RCRA permits but that qualify for Federal "interim status" must be required to comply with State permit conditions or the State's analogue to Federal "interim status" standards which are at least as stringent as the EPA regulations at Part 265.

The procedures that State programs need to provide for when issuing permits are identified in §271.14. This regulation refers to aspects of the Federal permitting program (Parts 270 and 124) which the State must have equal authority to address. States need not implement provisions identical to all the requirements identified in §271.14; however, alternate provisions must establish requirements that are at least as stringent as those in Checklist V (see Appendix A).

Some of the requirements in Parts 270 and 124 are primarily procedural in nature; that is, they bind the permitting authority (State or Federal) to act in a certain manner but generally do not impose requirements on the permittee or permit applicant. These requirements are noted in Checklist V. Three examples of these procedural requirements are:

- The requirement for a 45-day public comment period on draft permits (§124.10).
- The requirement to give public notice of the issuance of emergency permits (§270.61).
- The requirement to broadcast notice of permit actions over local radio stations.

It is preferable for the State to have these procedures in regulations (in the same manner as the Federal program at Parts 270 and 124). However, lacking adequate regulatory provisions, the State may be able to agree in its MOA to carry out the permitting procedure in accordance with the requirements for final authorization. In order for this approach to be acceptable, the State Attorney General must review the terms and conditions of the MOA and certify that (1) the State has the authority to enter into the agreement, (2) the State has the authority to carry out the agreement, and (3) no applicable State statute (including the State administrative procedure act) requires that the procedure be promulgated as a rule in order to be binding. The MOA must then contain an unequivocal State commitment to apply the procedures to each permit. Further, when a State will be processing a permit application (or terminating or modifying a permit) using procedures that are not specified in its regulations, notice of each draft permit must inform the public that the procedures to be followed in processing the permit are derived from the MOA as well as directly from State laws and regulations. The State must agree in the MOA to include this information in each notice.

The degree to which this approach may be legally acceptable will vary by State, depending on the State's legal authorities in the areas of hazardous waste regulation and administrative procedures. The State may not use the MOA to adopt procedures which directly conflict with State laws or regulations (e.g., the State agrees to provide for a 45-day public comment period even though the State's regulation sets a maximum 30-day comment period).

6. Variance, Waiver and Compliance Schedule Provisions

Many States have statutory or regulatory waiver, variance, or compliance schedule provisions that allow the State to grant regulatory relief to members of the regulated community on a case-by-case basis. Generally a waiver relieves a party from complying with a particular requirement altogether. A variance, on the other hand, changes the substantive requirement for compliance. Compliance schedules only change the date by which compliance is required.

The Federal RCRA program allows few exemptions from its regulations. The language of Section 3009 of RCRA precludes the use of variance and waiver provisions by the State that would render the State program less stringent than the Federal program. If the State's variance or waiver authority is broader than that for the Federal program (i.e., it allows greater deviation from the State's regulations than the Federal program would), the State provision may be acceptable if the provision is of such a nature that it can be invoked only at the discretion of the State agency. In this case, the State must agree in its MOA not to use the waiver or variance so that it would result in the imposition of any requirement less stringent than comparable Federal program requirements. Additionally, the Attorney General must certify that State law allows the State agency to agree to limit its use of the waiver provision in this fashion. The State must also agree in the MOA to inform EPA of the issuance of any variance or waiver (see page 2.4-9).

If, however, the State's variance or waiver authority is not discretionary, that is, the State's statute or regulation would require the granting of variances in certain situations that would render the State program less stringent, the option above would not be available as a means of satisfying §3009 and obtaining final authorization.

Section 270.33 of the Federal regulations provides that Federal permits may specify schedules leading to compliance. States may similarly use their authority to issue compliance schedules or temporary variances which operate as compliance schedules analogous to the Federal program. Therefore, State compliance schedule provisions analogous to §270.33 are not an impediment to final authorization.

RCRA STANDARD #3 - CONSISTENT PROGRAM

§ 271.4 Consistency.

To obtain approval, a State program must be consistent with the Federal program and State programs applicable in other States and in particular must comply with the provision below. For purposes of this section the phrase "State programs applicable in other States" refers only to those State hazardous waste programs which have received final authorization under this part.

(a) Any aspect of the State program which unreasonably restricts, impedes, or operates as a ban on the free movement across the State border of hazardous wastes from other States for treatment, storage, or disposal at facilities authorized to operate under the Federal or an approved State program shall be deemed inconsistent.

(b) Any aspect of State law or of the State program which has no basis in human health or environmental protection and which acts as a prohibition on the treatment, storage or disposal of hazardous waste in the State may be deemed inconsistent.

(c) If the State manifest system does not meet the requirements of this Part, the State program shall be deemed inconsistent.

Section 3006(b) of RCRA requires that authorized State programs must be "consistent with" the Federal RCRA program and other State programs. The call for consistent State programs must be balanced with the provision of §3009 that allows States to impose requirements which are more stringent than the Federal regulations. For this reason, EPA will apply the consistency test as narrowly as possible, limiting its application to only those areas described in 40 CFR 271.4.

Under §1005 of RCRA, two or more States may enter into interstate compacts or agreements to provide for cooperative effort and mutual assistance for the management of hazardous (and/or solid) waste and the enforcement of their respective laws relating thereto. No such compact or agreement is binding on the parties to it until it has been approved by the Administrator and Congress. Similarly, under §4 of the Low Level Radioactive Waste Policy Act of 1980, States may enter into compacts as may be necessary to provide for the establishment and operation of regional disposal facilities for low level radioactive waste. These compacts do not take effect until Congress has by law consented to the compact. Since the Congress has explicitly provided in the statutes that these interstate compacts are appropriate and since the compacts must individually receive Congressional approval, the establishment of such interstate compacts will not cause a State program to be deemed inconsistent.

The following sections briefly explain each consistency requirement found in §271.4. For each of these requirements examples are presented to illustrate questions that States may face regarding program consistency.

1. Interstate Movement of Wastes - §271.4(a)

This test of consistency applies to State controls that restrict the interstate transportation of waste. Examples of controls that are inconsistent under this requirement include:

- State requirement (law/regulation/policy) which bans the importation of hazardous waste from out of State.
- State requirement which sets geographic standards of discrimination (treats out-of-State waste differently than in-State wastes), such as a State policy which denies permission to import wastes unless there is insufficient waste management capacity available in the State of waste origin.
- State exclusive reciprocity agreement which in effect allows importation of wastes only from the States which are parties to such agreements.

States with these types of restrictions are strongly urged to repeal them. If this is not possible, then the requirements must somehow be rendered unenforceable. For example, if a State has an importation ban that it is unable to repeal, the AG would have to issue a formal opinion saying that he will not enforce the ban because it is unconstitutional.

2. Prohibition of Treatment, Storage, or Disposal - §271.4(b)

This test of consistency applies to aspects of the State law or program which prohibit treatment, storage or disposal of hazardous wastes. Such provisions will not be deemed inconsistent with RCRA if they are based on protection of human health or the environment.

Siting. Some States have siting laws or regulations that provide for the consideration of social, economic, financial, capacity, and other factors in site selection in addition to the human health or environmental impacts. Such provisions will not be judged to be inconsistent with RCRA if it is clear that siting decisions are to be based on health or environmental protection as well as these other factors. Thus, siting criteria beyond environmental protection are allowable.

A State siting provision that contradicts the express terms of §271.4 (for example, where the only basis for rejecting a site is economics), would be an obstacle to final authorization. It is quite unlikely that State siting provisions will have no basis in health or environmental protection.

EPA will review the State provisions that govern site selection, including regulations and policies governing siting boards. If such provisions on their face are not inconsistent (per §271.4), EPA does not intend to go beyond the provisions to hypothesize how decisions will actually be made.

3. Manifest System - §271.4(c)

This test of consistency applies to the State's use of a manifest tracking system. The State must follow the EPA tracking system, including the use of exception and discrepancy reports. States may build upon that system by matching generator, transporter and facility copies of the manifest at the State office and still be "consistent." An example of a provision which would be inconsistent under this requirement is a State requirement that the transporter carry a form with significantly more tracking information than is Federally required or allowed. However, the State would be free to require generators to send (e.g. mail) more detailed information to the TSDF prior to receipt of the wastes.

RCRA STANDARD #4 - MORE STRINGENT PROGRAM

In keeping with the intent of §3009 of RCRA, no State is prohibited from imposing requirements that are more stringent than EPA's. States may have more extensive regulatory programs than required to obtain authorization. It should be noted that where an approved State program has a greater scope of coverage than required by Federal law, the additional coverage is not part of the Federally approved program (see §271.1(i)(2)).

In addition, State programs need not include those Federal requirements that serve to exempt persons from certain regulatory requirements. For example, States are not required to provide an equivalent "delisting" mechanism in order to obtain final authorization. However, if the State program does include a delisting mechanism, that mechanism must be no less stringent that that of the Federal program in order for the State to obtain final authorization. (PIG's 81-4 and 82-4 outline the policy on delisting during interim authorization; this policy is the same for final authorization.)

RCRA STANDARD #5 - ADEQUATE ENFORCEMENT

§ 271.15 Requirements for compliance evaluation programs.

(a) State programs shall have procedures for receipt, evaluation, retention and investigation for possible enforcement of all notices and reports required of permittees and other regulated persons (and for investigation for possible enforcement of failure to submit these notices and reports).

(b) State programs shall have inspection and surveillance procedures to determine, independent of information supplied by regulated persons, compliance or noncompliance with applicable program requirements. The State shall maintain:

(1) A program which is capable of making comprehensive surveys of all facilities and activities subject to the State Director's authority to identify persons subject to regulation who have failed to comply with permit application or other program requirements. Any compilation, index, or inventory of such facilities and activities shall be made available to the Regional Administrator upon request;

(2) A program for periodic inspections of the facilities and activities subject to regulation. These inspections shall be conducted in a manner designed to:

(i) Determine compliance or noncompliance with issued permit conditions and other program requirements;

(ii) Verify the accuracy of information submitted by permittees and other regulated persons in reporting forms and other forms supplying monitoring data; and

(iii) Verify the adequacy of sampling, monitoring, and other methods used by permittees and other regulated persons to develop that information;

(3) A program for investigating information obtained regarding violations of applicable program and permit requirements; and

(4) Procedures for receiving and ensuring proper consideration of information submitted by the public about violations. Public effort in reporting violations shall be encouraged, and the State Director shall make available information on reporting procedures.

(c) The State Director and State officers engaged in compliance evaluation shall have authority to enter any site or premises subject to regulation or in which records relevant to program operation are kept in order to copy any records, inspect, monitor or otherwise investigate compliance with the State program including compliance with permit conditions and other program requirements. States whose law requires a search warrant before entry conform with this requirement.

(d) Investigatory inspections shall be conducted, samples shall be taken and other information shall be gathered in a manner (e.g., using proper "chain of custody" procedures) that will produce evidence admissible in an enforcement proceeding or in court.

§ 271.16 Requirements for enforcement authority.

(a) Any State agency administering a program shall have available the following remedies for violations of State program requirements:

(1) To restrain immediately and effectively any person by order or by suit in State court from engaging in any unauthorized activity which is endangering or causing damage to public health or the environment.

[Note.—This paragraph requires that States have a mechanism (e.g., an administrative cease and desist order or the ability to seek a temporary restraining order) to stop any unauthorized activity endangering public health or the environment.]

(2) To sue in courts of competent jurisdiction to enjoin any threatened or continuing violation of any program requirement, including permit conditions, without the necessity of a prior revocation of the permit;

(3) To access or sue to recover in court civil penalties and to seek criminal remedies, including fines, as follows:

(i) Civil penalties shall be recoverable for any program violation in at least the amount of $10,000 per day.

(ii) Criminal remedies shall be obtainable against any person who knowingly transports any hazardous waste to an unpermitted facility; who treats, stores, or disposes of hazardous waste without a permit; or who makes any false statement, or representation in any application, label, manifest, record, report, permit or other document filed, maintained, or used for purposes of program compliance. Criminal fines shall be recoverable in at least the amount of $10,000 per day for each violation, and imprisonment for at least six months shall be available.

(b)(1) The maximum civil penalty or criminal fines (as provided in paragraph (a)(3) of this section) shall be assessable for each instance of violation and, if the violation is continuous, shall be assessable up to the maximum amount for each day of violation.

(2) The burden of proof and degree of knowledge or intent required under State law for establishing violations under paragraph (a)(3) of this section, shall be no greater than the burden of proof or degree of knowledge or intent EPA must provide when it brings an action under the Act.

[Note.—For example, this requirement is not met if State law includes mental state as an element of proof for civil violations.]

(c) Any civil penalty assessed, sought or agreed upon by the State Director under paragraph (a)(3) of this section shall be appropriate to the violation. A civil penalty agreed upon by the State Director in settlement of administrative or judicial litigation may be adjusted by a percentage which represents the likelihood of success in establishing the underlying violation(s) in such litigation. If such civil penalty, together with the costs of expeditious compliance, would be so severely disproportionate to the resources of the violator as to jeopardize continuance in business, the payment of the penalty may be deferred or the penalty may be forgiven in whole or part, as circumstances warrant. In the case of a penalty for a failure to meet a statutory or final permit compliance deadline, "appropriate to the violation," as used in this paragraph, means a penalty which is equal to:

(1) An amount appropriate to address the harm or risk to public health or the environment; plus

(2) An amount appropriate to remove the economic benefit gained or to be gained from delayed compliance; plus

(3) An amount appropriate as a penalty for the violator's degree of recalcitrance, defiance, or indifference to requirements of the law; plus

(4) An amount appropriate to recover unusual or extraordinary enforcement costs thrust upon the public; minus

(5) An amount, if any, appropriate to reflect any part of the noncompliance attributable to the government itself; and minus

(6) An amount appropriate to reflect any part of the noncompliance caused by factors completely beyond the violator's control (e.g., floods, fires).

[Note.—In addition to the requirements of this paragraph, the State may have other enforcement remedies. The following enforcement options, while not mandatory, are highly recommended:

Procedures for assessment by the State of the costs of investigations, inspections, or monitoring surveys which lead to the establishment of violations;

Procedures which enable the State to assess or to sue any persons responsible for unauthorized activities for any expenses incurred by the State in removing, correcting, or terminating any adverse effects upon human health and the environment resulting from the unauthorized activity, whether or not accidental;

Procedures which enable the State to sue for compensation for any loss or destruction of wildlife, fish or aquatic life, or their habitat, and for any other damages caused by unauthorized activity, either to the State or to any residents of the State who are directly aggrieved by the unauthorized activity, or both; and

Procedures for the administrative assessment of penalties by the Director.]

(d) Any State administering a program shall provide for public participation in the State enforcement process by providing either:

(1) Authority which allows intervention as of right in any civil action to obtain remedies specified in paragraphs (a) (1), (2) or (3) of this section by any citizen having an interest which is or may be adversely affected; or

(2) Assurance that the State agency or enforcement authority will:

(i) Investigate and provide written responses to all citizen complaints submitted pursuant to the procedures specified in § 271.15(b)(4);

(ii) Not oppose intervention by any citizen when permissive intervention may be authorized by statute, rule, or regulation; and

(iii) Publish notice of and provide at least 30 days for public comment on any proposed settlement of a State enforcement action.

Once authorized, the State program operates in lieu of the Federal program. EPA retains its right to exercise its enforcement responsibilities in authorized States, though the requirements EPA enforces in that case are the State's requirements.

40 CFR 271.16(a)(2) requires States to have authority to enjoin violations of State hazardous waste regulations and permits. This provision specifically requires that States applying for final authorization have the authority "to sue in courts of competent jurisdiction to enjoin any threatened or continuing violation of any program requirement, including permit conditions, without the necessity of a prior revocation of the permit." Authority over threatened violations is required so that States may enjoin regulatory violations about to occur even though the threatened violations may not rise to the level of an imminent hazard (§271.16(a)(1)).

Questions have arisen about what type of legal authority States must demonstrate to comply with this provision. Several options are available. First, the State analogue to RCRA §3008 may provide the necessary authority. This authority may be explicit or, as in the case of Section 3008, implicit in the authority to enforce the Subtitle C regulations. Alternatively, it is sufficient for a State to establish that general authority or case law authority exists for a State court of competent jurisdiction to grant the State injunctive relief (whether preliminary or permanent) in cases involving threatened violations. Stated another way, if a State Attorney General is able to demonstrate that the State courts are generally empowered to grant injunctive relief and that such relief could be granted to the State in a suit to enjoin a threatened violation of a program requirement or permit condition, then the State program would comply with §271.16(a)(2).

The minimum requirements for State enforcement penalties are specified in §271.16(a)(3)(i). These penalty levels are necessary to ensure effective State enforcement programs and to minimize the need for EPA to take civil or criminal enforcement actions in an authorized State. Therefore, the State must demonstrate that it has the authority to seek the penalty levels required by §271.16(a)(3)(i). However, the actual fine which will be sought or ultimately recovered in an enforcement case is not a final authorization issue.

The requirement in §271.16(d) concerning public participation in the enforcement processs may be satisfied through agreement in the MOA between the State and EPA accompanied by a certification by the State Attorney General (see page 2.3-10). Also note that §271.16(d) does not require the State program to have a citizen suit provision comparable to EPA's (§7002 of RCRA). The State is not required to have statutory or regulatory authority equivalent to §7002 in order to obtain final authorization.

RCRA STANDARD #6 - NOTICE AND HEARING IN THE PERMIT PROCESS

RCRA §7004(b)(2) stipulates that no State permit program may be authorized unless it: (1) provides notice of its intent to issue a permit through publication in "major local newspapers of general circulation": (2) broadcasts such notice over local radio stations; (3) provides written notice to certain State and local government agencies; (4) provides for at least a 45 day public comment period; and (5) holds an informal public hearing if one is requested during the comment period. (See also §271.14.) As is the case with other procedural aspects of the permitting process, if the State has the authority, it may agree in its MOA to adhere to these procedures if they are not required by the State's regulations. Further discussion of such agreements is provided on page 1.3-7.

The State need not use the term "informal public hearing"; the pertinent requirement is that the State hearing procedure be of the same nature of that described in RCRA §7004(b)(2) and further defined in 40 CFR 124.12. The RCRA hearing is one that is purely legislative in nature (i.e., not an "evidentiary hearing" as provided for in Subparts E or F of 40 CFR Part 124) and at which oral or written statements and data concerning the draft permit may be submitted by any interested person. Additional discussion can be found at 45 FR 33405 and 33406 (May 19, 1980).

Where a State employs hearings of the nature of an "evidentiary hearing", it should ensure that its evidentiary procedures also contain procedures analogous to those in 40 CFR 124.12, or else hold an additional "informal" hearing.

CHAPTER 1.4

APPROVAL PROCESS

Federal Requirement

§ 271.20 Approval process.

(a) Prior to submitting an application to EPA for approval of a State program, the State shall issue public notice of its intent to seek program approval from EPA. This public notice shall:

(1) Be circulated in a manner calculated to attract the attention of interested persons including:

(i) Publication in enough of the largest newspapers in the State to attract statewide attention; and

(ii) Mailing to persons on the State agency mailing list and to any other persons whom the agency has reason to believe are interested;

(2) Indicate when and where the State's proposed submission may be reviewed by the public;

(3) Indicate the cost of obtaining a copy of the submission;

(4) Provide for a comment period of not less than 30 days during which time interested members of the public may express their views on the proposed program;

(5) Provide that a public hearing will be held by the State or EPA if sufficient public interest is shown or, alternatively, schedule such a public hearing. Any public hearing to be held by the State on its application for authorization shall be scheduled no earlier than 30 days after the notice of hearing is published;

(6) Briefly outline the fundamental aspects of the State program; and

(7) Identify a person that an interested member of the public may contact with any questions.

(b) If the proposed State program is substantially modified after the public comment period provided in paragraph (a)(4) of this section, the State shall, prior to submitting its program to the Administrator, provide an opportunity for further public comment in accordance with the procedures of paragraph (a) of this section. Provided, that the opportunity for further public comment may be limited to those portions of the State's application which have been changed since the prior public notice.

(c) After complying with the requirements of paragraphs (a) and (b) of this section, the State may submit, in accordance with § 271.5, a proposed program to EPA for approval. Such formal submission may only be made after the date of promulgation of the last component of Phase II. The program submission shall include copies of all written comments received by the State, a transcript, recording, or summary of any public hearing which was held by the State, and a responsiveness summary which identifies the public participation activities conducted, describes the matters presented to the public, summarizes significant comments received and responds to these comments.

(d) Within 90 days from the date of receipt of a complete program submission for final authorization, the Administrator shall make a tentative determination as to whether or not he expects to grant authorization to the State program. If the Administrator indicates that he may not approve the State program he shall include a general statement of his areas of concern. The Administrator shall give notice of this tentative determination in the Federal Register and in accordance with paragraph (a)(1) of this section. Notice of the tentative determination of authorization shall also:

(1) Indicate that a public hearing will be held by EPA no earlier than 30 days after notice of the tentative determination of authorization. The notice may require persons wishing to present testimony to file a request with the Regional Administrator, who may cancel the public hearing if sufficient public interest in a hearing is not expressed.

(2) Afford the public 30 days after the notice to comment on the State's submission and the tentative determination; and

(3) Note the availability of the State submission for inspection and copying by the public.

(e) Within 90 days of the notice given pursuant to paragraph (d) of this section, the Administrator shall make a final determination whether or not to approve the State's program, taking into account any comments submitted. The Administrator will grant final authorization only after the effective date of the last component of Phase II. The Administrator shall give notice of this final determination in the Federal Register and in accordance with paragraph (a)(1) of this section. The notification shall include a concise statement of the reasons for this determination, and a response to significant comments received.

Introduction

The approval process for State authorization is described generally in Section 3006(b) of RCRA. EPA regulations at 40 CFR 271.20 (shown above) define the approval process in greater detail. (Also see §271.5(b) and (c).) The purpose of this chapter is to present the procedures that will be used by the EPA Headquarters and Regional Offices to review applications for final authorization of State hazardous waste management programs. By setting forth these procedures in detail the guidance is intended to:

- Make the States aware of the EPA approval process;
- Provide for Regional and national consistency;
- Assign responsibilities to specific groups in both the Region and Headquarters; and
- Minimize the review and approval time frames.

The guidance suggests an early review of State hazardous waste statutes in order to identify major deficiencies so that the States will have sufficient time to take the necessary legislative actions before the interim authorization period expires. Guidance is also provided on the review procedures and responsibilities for draft and official State applications.

Section 3006(b) of RCRA provides that a tentative determination regarding whether the Agency expects to approve the State program must be announced in the Federal Register within 90 days of receipt of the State's official application. Then, within 90 days of this announcement the final decision must be published. Therefore, it is critical that timely reviews be conducted of the State's official application.

The final authorization approval process differs from the interim authorization process in the two decision notices discussed above and in the State's public comment period on its application before it is submitted to EPA. Aside from these major differences, States with interim authorization should find the final authorization approval process familiar.

It should be emphasized that the approval process and timetables presented in this chapter are designed to move the State into final authorization in a timely manner and with confidence. Approaches which differ from the one presented here may result in delay (see §271.5(d)).

General Schedule

The goal of this approval process is to confer final authorization to qualified State hazardous waste programs expeditiously and with the statutorily required public participation. The final authorization approval process may begin as early as July 26, 1982, the date that the beginning of final authorization was announced in the Federal Register. This date also marks the beginning of the period during which a State may retain interim authorization for Phase I, Phase II A, Phase II B and/or Phase II C. On January 26, 1985 interim authorization expires. Therefore, while a State may apply for, and be granted, final authorization effective any time after January 26, 1983, interim authorization programs will revert to EPA on January 26, 1985, if the State has not received final authorization.

The first step (which is optional) is for the State program to submit its laws to EPA for a pre-application statutory review. Subsequently, the State prepares a draft application for final authorization following the guidance provided in this Manual and submits it to EPA for review. After EPA review and comment, the State then redrafts its application in response to EPA comments and issues a public notice of its intent to seek program approval. The State must provide a public comment period of at least 30 days following this notice and, if sufficient interest is shown, a public hearing must be held.

Once the State has addressed the public comments, it may formally submit its official application for final authorization to EPA. EPA will notify the State within 30 days as to whether the application is complete. If the application is deemed complete EPA has 90 days from the receipt of the application to announce in the Federal Register its tentative determination regarding the approval of the State program. A public comment period of at least 30 days follows the tentative decision, and a public hearing is held if sufficient public interest is expressed. After considering all of the comments submitted, within 90 days of the tentative decision EPA must announce in the Federal Register its final decision whether or not to approve the State program.

Figures 1 and 2 illustrate typical timetables of events that will be followed when a State applies for final authorization. States are strongly encouraged to submit their draft applications as early as possible in order to avoid a lapse in their authorization. This is of special concern since review of the draft may indicate the need for time-consuming regulatory or statutory changes that must be completed prior to final authorization.

Regional and Headquarters Review Teams

Regional Workgroups and Headquarters Review Teams have been established to assist States with their applications and to coordinate and manage the Agency's review and approval of State submittals. The development of these two groups as the respective Regional and Headquarters focal points is designed to involve all parties interested in State program authorization and to ensure consistency in Agency comments to the States.

Each Regional Office has a Regional Workgroup coordinated, directed and chaired by the Waste Management Branch. As a minimum, the Regional Workgroups are composed of members from the Hazardous Waste Branch and the Regional Counsel/Enforcement Office. Each State is assigned a Coordinator from the Regional Office. The State Coordinator will be responsible for coordinating and consolidating the review comments generated by the Regional Workgroup and the Headquarters Review Team on various aspects of the State submittal.

Three Headquarters Review Teams have been established with specific geographic responsibility:

Northern States Review Team - Regions 1, 2, 3
Southern States Review Team - Regions 4, 6, 9
Western States Review Team - Regions 5, 7, 8, 10

The Headquarters Review Teams are composed of personnel from the Office of Solid Waste and Emergency Response (OSWER), the Office of General Counsel (OGC), and the Office of Enforcement Counsel (OEC). The Review Teams are coordinated, directed and chaired by the State Programs Branch of the Office of Solid Waste. For each team a Team Leader has been designated with responsibility for coordinating the efforts of the team. Also, each Region is assigned a Regional Liaison from the Office of Solid Waste who is responsible for coordinating and consolidating the review comments generated by the Headquarters Review Team.

Frequent contact should be maintained between the Regional Workgroup members and their respective counterpart offices in Headquarters (e.g., the Regional Waste Management Branch and the Office of Solid Waste, the Regional Counsel/Enforcement Office and the Office of General Counsel as well as the Office of Enforcement Counsel). This is necessary in order to ensure that concurring offices remain informed of the positions taken during the review process. The success of the authorization process and cooperation between EPA and the State depends on EPA's effectiveness in communicating in a way that accurately reflects the Agency's position on significant issues.

Application Review Process

The application review process is divided into three distinct stages:

1. Pre-application statutory review
2. Draft application
3. Official application

For each stage of the review process, the specific activities and responsibilities of the Headquarters Review Team and Regional Workgroup have been defined and time frames for these activities have been established.

EPA's review of State submittals should result in a clear and uniform Agency position. Therefore, EPA should provide the States with a single consolidated set of comments. To accomplish this, the Regions and Headquarters will coordinate their comments via the State Coordinators in the Regional offices.

The Regional Work Group and the Headquarters Review Team are the focal points for the review of draft and official applications. Upon receipt of an application, the State Coordinator logs in and transmits copies to the Headquarters Review Team Leader and the Regional Workgroup for review. The Team leader in turn distributes copies to members of his Review Team. Headquarters Review Team members and Regional Workgroup members are responsible for ensuring that comments are submitted to the Team Leader on time.

Headquarters will provide a detailed set of comments on the draft and official applications that will be transmitted to the State Coordinator by the Review Team Leader. These comments will also be summarized and addressed to the Regional Administrator jointly under the signatures of the Assistant Administrator for Solid Waste and Emergency Response, and the Associate Administrator for Legal and Enforcement Counsel (OLEC).

The State Coordinator will combine Headquarters comments with the comments generated by the Regional Office into one set of comments. The State Coordinator will resolve with Headquarters any conflicts in consolidating comments before transmitting them to the States. If Headquarters' comments on the draft application are accommodated and no new issues are raised by the public during the public comment periods or by the State in the complete application, the Regional Office should expect Headquarters' concurrence on the complete application in an expedited manner. However, failure of the State Coordinator to transmit Headquarters' review comments to the State, or failure by the State to adequately address the issues raised in such comments, could result either in a delay in final concurrence or in non-concurrence by the Headquarters offices.

Final approval of complete applications will be made by the Regional Administrator with the Assistant Administrator for OSWER and the Associate Administrator for OLEC (see EPA Delegation 8-7) concurring in the action.

Pre-Application Statutory Review

The interim authorization period ends on January 26, 1985. Therefore, it is critical that deficiencies in State laws are identified as early as possible so States will have adequate time to make the necessary legislation modifications for final authorization before the interim authorization period expires. Therefore, EPA has established an optional pre-application review to help States identify changes that may be needed in their laws. EPA will review State statutes as quickly as resources allow, recognizing the timeliness of this effort.

States are urged to provide to EPA their hazardous waste statutes and other statutes that may be invoked to carry out the hazardous waste program (such as an Administrative Procedure Act), including any proposed or pending legislative actions. (Submission of consolidated statutes reflecting all amendments to the original legislation would help expedite EPA's review). The State should complete the "State Legislation Checklist" (see Chapter 2.7) and include it in their submission. The Statutory review will cover the specific areas delineated in the "State Legislation Checklist."

Recognizing that Agency attorneys cannot be experts on all State laws, the State Attorney General may wish to provide a draft statement, explanatory discussion, or supporting evidence regarding State statutory authority. Otherwise, EPA will perform its review on the face of the State statutes.

Review of the State statutes should enable early identification of major statutory problems. However, without simultaneous review of the State regulations and the formal Attorney General's Statement, EPA cannot assure that all statutory deficiencies will surface at this early stage. State statutes must provide authority not only to develop a program which meets EPA requirements, but also to promulgate the specific regulations which the State has chosen (or will choose) to issue. Without the State's regulations, EPA cannot comment on whether the States's legislation would authorize the specific regulatory program which the State has adopted or will adopt.

Many of these reviews will be expedited by EPA's familiarity with the State programs gained through the interim authorization process. However, the requirements for State programs are different for final authorization. Many States identified in their Authorization Plan statutory and regulatory changes necessary for final authorization; however, it is possible that additional changes may be required if the EPA review identifies previously undiscovered inadequacies.

Consolidated Regional and Headquarters comments will be transmitted by the Regional Administrator to the State Director.

Draft Application

The development and review of a draft application is an essential part of the State approval process. A well-prepared and thoroughly reviewed draft application (properly revised, if necessary) should significantly reduce the time needed to perform the formal review and approval of the complete application. This process should also result in a sound document to be presented to the public as the State's proposed application to EPA and should reduce the possibility of subsequent major changes to the application that would require additional opportunity for public comment. The review of the draft application should be expedited by the pre-application review of State laws.

The draft application should contain all of the elements of a complete application except for the Governor's letter and the "Showing of Public Participation" (see Chapter 2.5). However, the State may wish to make special arrangements with the Regional Office to review partial drafts of their application prior to the submission of the complete draft application. Any deficiencies identified in the preapplication statutory review should be corrected or explained in the draft application. Additionally, any changes made by the State since prior reviews should be clearly identified to facilitate EPA's review. Since the application is in draft form, there is no need for signatures on the various component documents (e.g., MOA, AG Statement).

Figure 1 is a flow diagram that summarizes the review procedure for the draft application. As indicated in this figure, the goal is to review the draft applications within 60 days. However, this timetable assumes that a pre-application statutory review of the statutes has been completed. Otherwise the review may require additional time and effort.

State Public Notice and Hearing

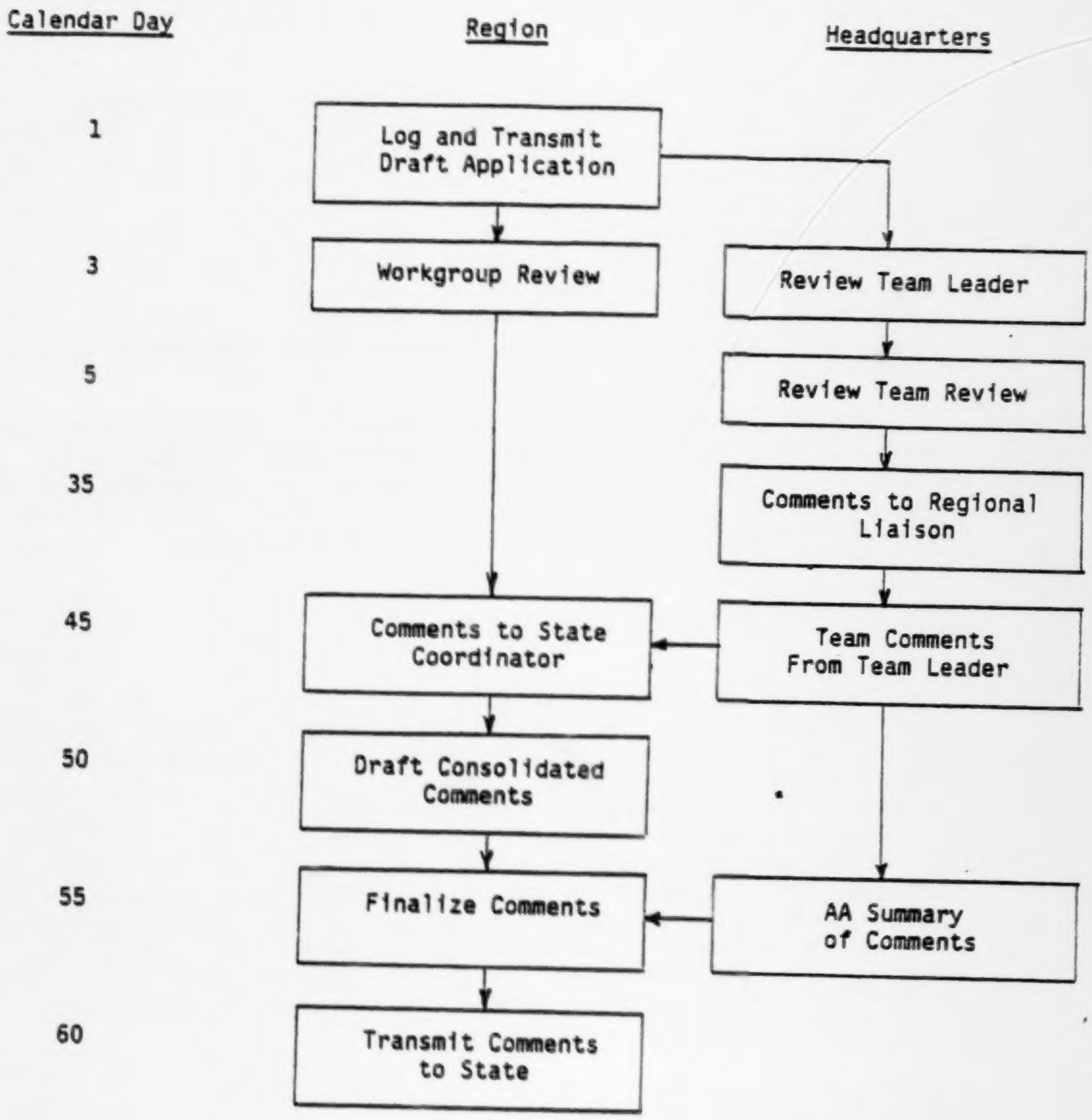
Prior to submitting an official application to EPA, the State must give public notice of its intent to seek authorization and make available to the public the State's proposed submission. If sufficient public interest is shown, a public hearing must be held by the State. At the request of the State, an EPA representative may participate as a Panel member at the hearing. The attendance by EPA will help assure a mutual understanding between the State and EPA regarding public sentiment toward the application. The official application should contain modifications or responses based on the public comments. A transcript or summary of the public hearing, copies of all written comments received by the State and the State's responsiveness summary, must be included in the State's official application (see Chapter 2.5). For further details regarding the State public notice and hearing see §271.20(a) and (b).

Official Application

The official application represents the State's formal submission for final authorization of its hazardous waste management program. The application must contain all of the elements described in §271.5 (see Chapters 2.1 - 2.6). To expedite the review of the application, the State is urged to identify changes made since the draft application. Upon receipt of the application, the State Coordinator should immediately transmit copies to all Regional reviewers and to the Headquarters' Review Team Leader. The review

Figure 1

Draft Application Review Process


Calendar Day
Region
Headquarters
1
Log and Transmit Draft Application
3
Workgroup Review
Review Team Leader
5
Review Team Review
35
Comments to Regional Liaison
45
Comments to State Coordinator
Team Comments From Team Leader
50
Draft Consolidated Comments
55
Finalize Comments
AA Summary of Comments
60
Transmit Comments to State

should commence at once since the review timetables must be adhered to unless the application is deemed to be incomplete. The major review activities and the EPA documents resulting from the review are described below. The review schedule for the official application is diagrammed in Figure 2. It should be noted that EPA and the State may extend the statutory review period by agreement (see §271.5(d)). Also, any time the State's application is materially changed, the statutory review period begins again upon receipt of the revised submission (see §271.5(c)). This may require the State to provide another round of public comment before it resubmits its official application.

1. Completeness Determination

Once the official application has been received in the Regional Office and transmitted to all Regional and Headquarters reviewers, the State Coordinator must evaluate the application for completeness using the checklist in Chapter 2.8. The Regional Administrator must notify the State by letter within 30 days as to whether or not the submittal is complete. To accomplish this the letter should be mailed by Day 25 (see Figure 2).

If the application is found to be complete, the 90 day review process is deemed to have begun on the day EPA received the State's submittal. However, if the application is found to be incomplete, the review period is suspended until all the necessary information is submitted to EPA, at which time the 90 day review period is restarted (see §271.5(b)). If the application is incomplete, the information required to complete the application should be identified in the Regional Administrator's letter to the State.

2. Comments

The comments from the Regional and Headquarters reviewers should discuss whether the State should be authorized based on the information submitted in its application. These comments should clearly delineate any problem areas which must be corrected before the State can be authorized. Also, the comments should provide suggestions or recommended modifications to the State's application to help rectify any deficiencies discovered in the review process. Workgroup and Review Team Comments should be submitted to the State Coordinator by Day 20 so the Coordinator can begin drafting a letter to the State and an Action Memorandum and a Federal Register notice containing the Agency's tentative decision. Headquarters will transmit the AA Summary of Comments by Day 27 indicating Headquarters' official position on the application. This summary of comments should assist the State Coordinator in finalizing the Action Memorandum and the Federal Register Notice.

3. Action Memorandum

Once the Headquarters Review Team and the Regional Workgroup have commented on the State's submittal, an Action Memorandum from the Regional Administrator to the Assistant Administrator for OSWER and the Associate Administrator for OLEC will be prepared by the State Coordinator with concurrence of the Regional Workgroup members. This Action Memorandum must contain a specific recommendation with respect to the tentative decision

Figure 2

Official Application Review Process

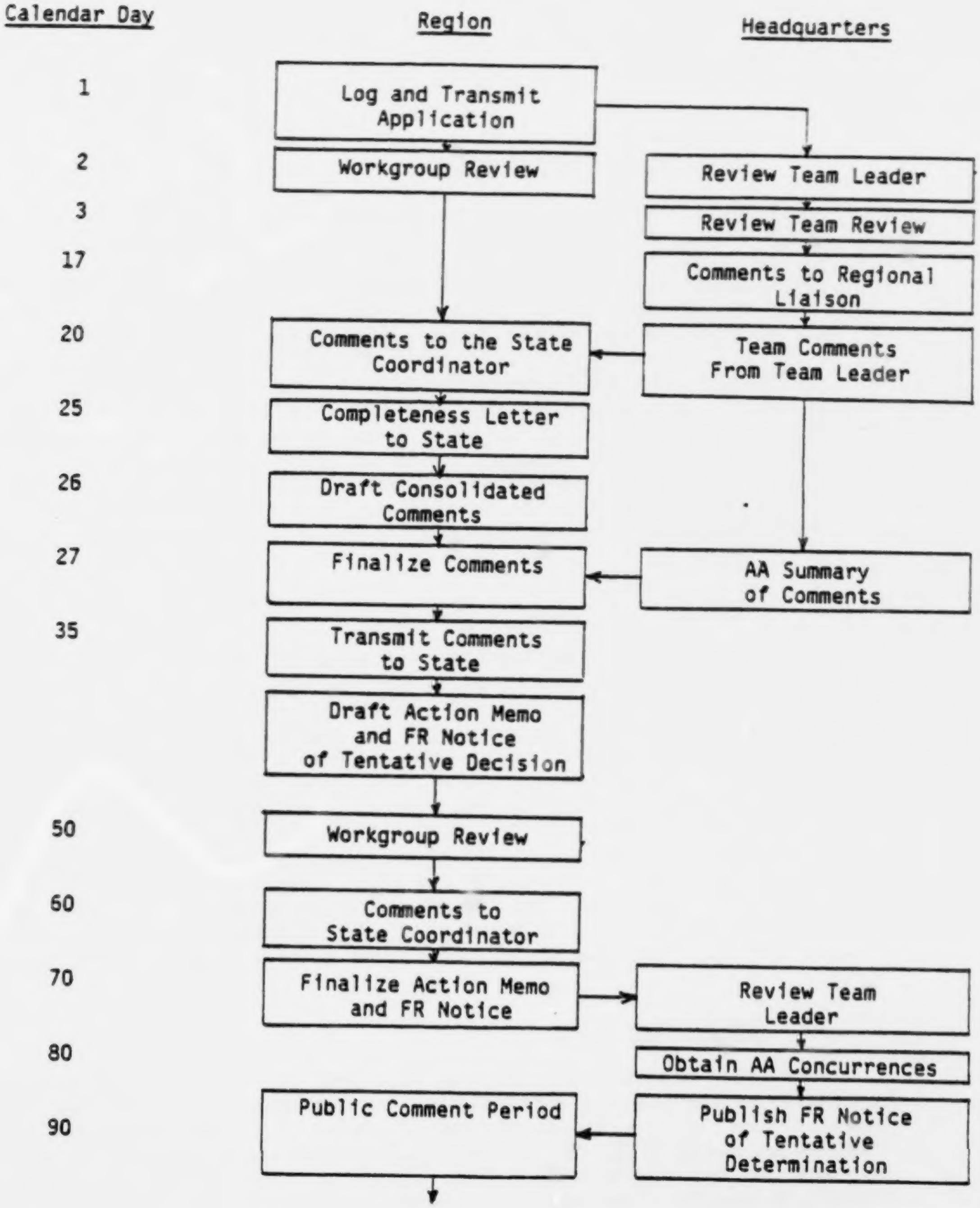
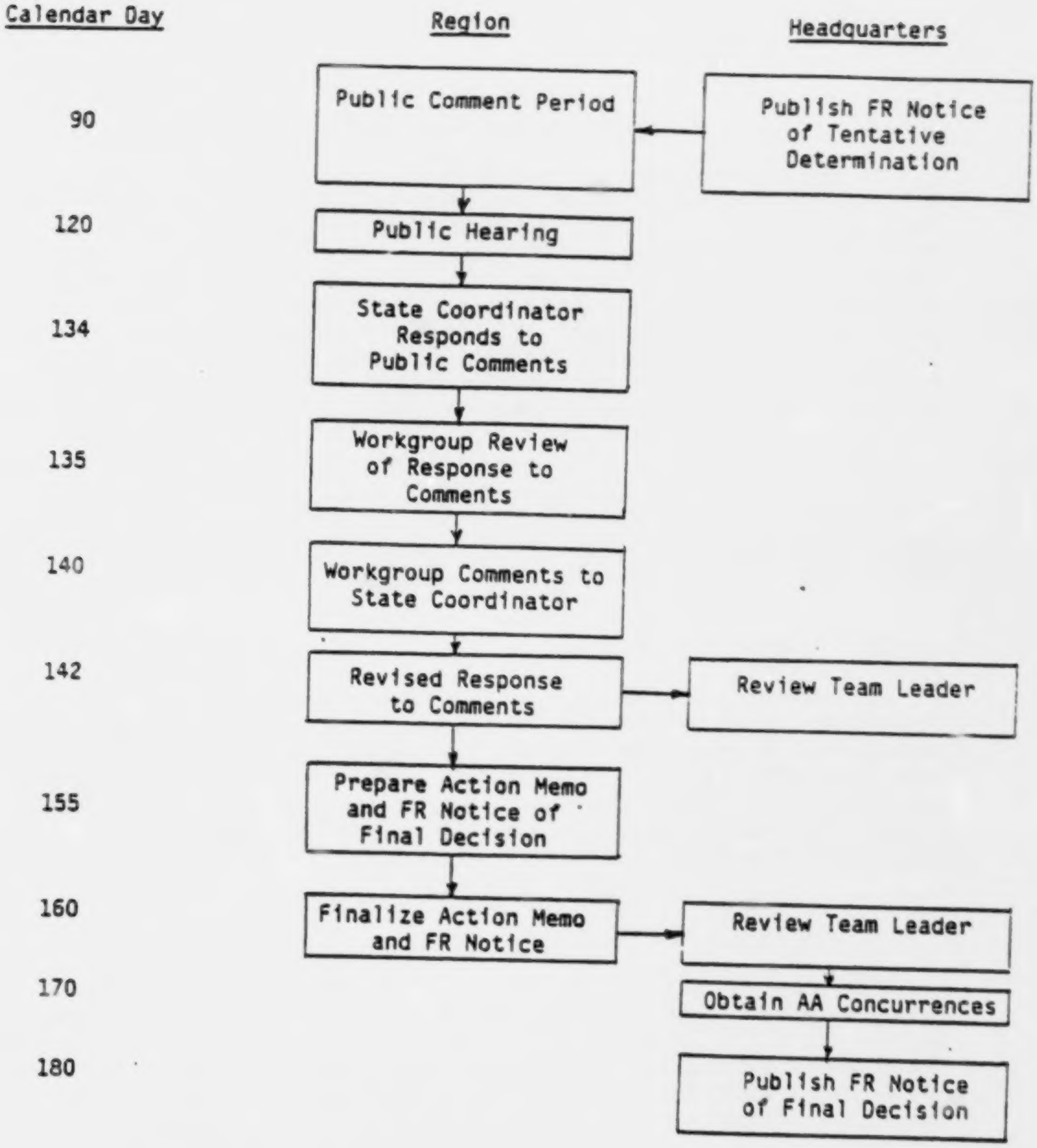

Calendar Day
Region
Headquarters
1
Log and Transmit Application
2
Workgroup Review
Review Team Leader
3
Review Team Review
17
Comments to Regional Liaison
20
Comments to the State Coordinator
Team Comments From Team Leader
25
Completeness Letter to State
26
Draft Consolidated Comments
27
Finalize Comments
AA Summary of Comments
35
Transmit Comments to State
Draft Action Memo and FR Notice of Tentative Decision
50
Workgroup Review
60
Comments to State Coordinator
70
Finalize Action Memo and FR Notice
Review Team Leader
80
Obtain AA Concurrences
90
Public Comment Period
Publish FR Notice of Tentative Determination

Figure 2 (continued)

Official Application Review Process


Calendar Day
Region
Headquarters
90
Public Comment Period
Publish FR Notice of Tentative Determination
120
Public Hearing
134
State Coordinator Responds to Public Comments
135
Workgroup Review of Response to Comments
140
Workgroup Comments to State Coordinator
142
Revised Response to Comments
Review Team Leader
155
Prepare Action Memo and FR Notice of Final Decision
160
Finalize Action Memo and FR Notice
Review Team Leader
170
Obtain AA Concurrences
180
Publish FR Notice of Final Decision

regarding the approval of the application. It should also highlight specific questions or problem areas and provide some insight into key agreements reached during the drafting stage. It is important that the Action Memorandum represent the recommendations of the Regional Workgroup members and Headquarters Review Team in order to expedite the concurrence process. The Action Memorandum should provide space for Headquarters and Regional Office concurrences and should attach the Notice of Tentative Decision for publication in the Federal Register.

4. Federal Register Notice of Tentative Determination

A Federal Register notice should be prepared by the State Coordinator and Regional Counsel based on the comments provided by the Headquarters and Regional Offices. The notice must present the Agency's tentative decision as to whether the State program should be authorized. The discussion in the notice should focus on whether the Agency expects the State program to be authorized. If the notice indicates that the State program may not be approved, a general statement of areas of concern shall be included (see §271.20(d)). The notice must also announce availability of the State's application for public review and comment and the schedule for a public hearing. Each notice should also say that issues raised by public comments during the comment period may be the basis for EPA denying authorization to a State program. By Day 70 the Regional Administrator should submit the Action Memorandum and Federal Register notice to the Headquarters Review Team Leader. Concurrences from OLEC and OSWER are due within ten days. The Federal Register notice is then submitted for publication.so that it will appear within 90 days of the receipt of the complete application.

5. Public Information

Concurrent with the Federal Register notice publication, the State Coordinator will arrange for a notice concerning the Agency's tentative decision to be published in State newspapers and mailed to interested persons (see §271.20(d)). In addition, the State Coordinator and the Headquarters Review Team Leader will set up depositories of the State's submittal for public review in the Regional Office and in Washington, D.C. Copies should also be available in State depositories.

6. Hearing

The Federal public hearing will be chaired by the Regional Office. Headquarters may wish to have a representative present or as a member of the panel. The State Coordinator will be responsible for preparing responses to the public comments and testimony. These responses should be reviewed by the Regional Workgroup and should be transmitted to Headquarters Review Team for their information.

7. State Application Amendments

The State will have the opportunity to respond to EPA's concerns and to comments raised by the public. States will be provided with transcripts or EPA's official notes from any hearings along with copies of written comments submitted. The State may amend its application where appropriate to rectify any deficiencies identified. When possible, these modifications should be submitted to EPA prior to the Federal public hearing. The State's amendments may strengthen its position at the hearing if they respond to EPA's concerns. Any modifications made necessary due to public comment following the Federal Register notice should be submitted to EPA by Day 140 to allow 40 days for Agency review and final determination. Any additional State submittals must be distributed by the State Coordinator to all Regional and Headquarters reviewers for comments. It must be recognized that if EPA determines that the amendments have materially changed the State's application, the statutory review period will begin again (§271.5(c)), and another round of State notice and comment period will be required. EPA also may need to hold another public hearing or extend the comment period. In any event, EPA will review all amendments to the initial application.

8. Federal Register Notice of Final Decision

The State Coordinator, with assistance from the Regional Counsel, must prepare the Action Memorandum and Federal Register notice regarding the final decision. These documents are similar to the ones prepared earlier, though they must now address the final decision regarding authorization for the State program. They contain the same information as the earlier ones. They will also include EPA's responses to public comments and to any changes made by the State. The Action Memorandum and Federal Register notice must be received by Headquarters 20 days before the end of the second 90 day review period (Day 160).

Each Regional Workgroup member and Headquarters Review Team member has the responsibility of briefing his/her respective Division Director or Office Director on the final recommendation in advance of the transmittal of the Action Memorandum. This briefing is intended to avoid any unnecessary delays in the concurrence process. Coordination of the concurrence procedure remains the responsibility of the Review Team Leader in Headquarters and the State Coordinator in the Region.

The Regional Administrator must obtain the agreement of the concurring offices within the 90 day statutory review time frame.

Effect of Federal Program Changes

EPA regulations at §271.21(e) require that on approval, the State program must be equivalent to the Federal program in effect on the date of authorization. This requirement could potentially create a moving target for States, if the Federal program were to undergo change while the States' applications are awaiting final action. It is possible that a State which is on the verge of receiving final authorization could be forced to change its program and resubmit its application due to a change in the Federal program. Such a situation could also delay the State's receipt of final authorization beyond the interim authorization period, resulting in reversion of the program to EPA. In order to avoid this situation, the Agency is planning to propose a regulatory amendment that would establish for a specified time period a fixed set of regulations as the basis for final authorization decisions.

Recordkeeping

It is essential that the Regions develop an authorization file system which will provide a comprehensive record of the Agency's decision-making in the authorization process. The recordkeeping system should provide a simple, efficient system for:

- Information useful in monitoring the approval process, e.g., tracking stage of completion and need for amendment;
- Information which can be used for program planning, e.g., phasing of the review and approval process; and
- Information which can be used to respond to subsequent changes to the application.

The State Coordinator is responsible for maintaining an authorization file for each State. The authorization file should contain the following elements:

1. A copy of the legislation and regulations and copies of any comments from the pre-application review;
2. A copy of the draft and complete applications;
3. Copies of all comments from the Regional Workgroup as they pertain to the draft and complete applications;
4. Copies of consolidated comments, correspondence and records of telephone calls related to the application review from the Headquarters Review Team;
5. Summaries of meetings and telephone calls with Headquarters, the Regional Office and the State as they pertain to the approval process;
6. A log which tracks the review of submittals and dates for comments;
7. Copies of comments and statements from the Regional Administrator and concurring offices;
8. *Federal Register* Notices;

9. All public comments and responses; and

10. Action Memoranda.

The authorization file is not a public docket file. The Office of Regional Counsel should be consulted when requests are received for any documents that are not already public documents (e.g., an Action Memorandum or any other internal EPA memo).

CHAPTER 2.1

GOVERNOR'S LETTER

Federal Requirement

§ 271.5 Elements of a program submission.

(a) Any State that seeks to administer a program under this part shall submit to the Administrator at least three copies of a program submission. The submission shall contain the following:

(1) A letter from the Governor of the State requesting program approval;

(2) A complete program description, as required by § 271.6 describing how the State intends to carry out its responsibilities under this subpart;

(3) An Attorney General's statement as required by § 271.7;

(4) A Memorandum of Agreement with the Regional Administrator as required by § 271.8;

(5) Copies of all applicable State statutes and regulations, including those governing State administrative procedures; and

(6) The showing required by § 271.20(c) of the State's public participation activities prior to program submission.

(b) Within 30 days of receipt by EPA of a State program submission, EPA will notify the State whether its submission is complete. If EPA finds that a State's submission is complete, the statutory review period (i.e., the period of time allotted for formal EPA review of a proposed State program under section 3006(b) of the Act) shall be deemed to have begun on the date of receipt of the State's submission. If EPA finds that a State's submission is incomplete, the review period shall not begin until all necessary information is received by EPA.

(c) If the State's submission is materially changed during the review period, the review period shall begin again upon receipt of the revised submission.

(d) The State and EPA may extend the review period by agreement.

Introduction

RCRA Section 3006(b) requires that "any State which seeks to administer and enforce a hazardous waste program pursuant to this subtitle may develop and, after notice and opportunity for public hearing, submit to the Administrator an application, in such form as he shall require, for authorization of such program." The Governor's letter transmits the State's application and is the formal request for program approval.

Content

The Governor's letter to EPA should contain a reference to the Federal statute, a reference to the application, a request for approval of the State program, and the Governor's signature.

CHAPTER 2.2

PROGRAM DESCRIPTION

Federal Requirement

§ 271.6 Program description.

Any State that seeks to administer a program under this subpart shall submit a description of the program it proposes to administer in lieu of the Federal program under State law or under an interstate compact. The program description shall include:

(a) A description in narrative form of the scope, structure, coverage and processes of the State program.

(b) A description (including organization charts) of the organization and structure of the State agency or agencies which will have responsibility for administering the program, including the information listed below. If more than one agency is responsible for administration of a program, each agency must have statewide jurisdiction over a class of activities. The responsibilities of each agency must be delineated, their procedures for coordination set forth, and an agency must be designated as a "lead agency" to facilitate communications between EPA and the State agencies having program responsibilities. When the State proposes to administer a program of greater scope of coverage than is required by Federal law, the information provided under this paragraph shall indicate the resources dedicated to administering the Federally required portion of the program.

(1) A description of the State agency staff who will carry out the State program, including the number, occupations, and general duties of the employees. The State need not submit complete job descriptions for every employee carrying out the State program.

(2) An itemization of the estimated costs of establishing and administering the program, including cost of the personnel listed in paragraph (b)(1) of this section, cost of administrative support, and cost of technical support. This estimate must cover the first two years after program approval.

(3) An itemization of the sources and amounts of funding, including an estimate of Federal grant money, available to the State Director to meet the costs listed in paragraph (b)(2) of this section, identifying any restrictions or limitations upon this funding. This estimate must cover the first two years after program approval.

(c) A description of applicable State procedures, including permitting procedures and any State administrative or judicial review procedures.

(d) Copies of the permit form(s), application form(s), reporting form(s), and manifest format the State intends to employ in its program. Forms used by States need not be identical to the forms used by EPA but should require the same basic information. The State need not provide copies of uniform national forms it intends to use but should note its intention to use such forms.

Note:—States are encouraged to use uniform national forms established by the Administrator. If uniform national forms are used, they may be modified to include the State Agency's name, address, logo, and other similar information, as appropriate, in place of EPA's.

(e) A complete description of the State's compliance tracking and enforcement program.

(f) A description of the State manifest tracking system, and of the procedures the State will use to coordinate information with other approved State programs and the Federal program regarding interstate and international shipments.

(g) An estimate of the number of the following:

(1) Generators;

(2) Transporters; and

(3) On- and off-site storage, treatment and disposal facilities, and a brief description of the types of facilities and an indication of the permit status of these facilities.

(h) If available, an estimate of the annual quantities of hazardous wastes generated within the State; transported into and out of the State; and stored, treated, or disposed of within the State: On-site; and Off-site.

Introduction

The Program Description is one of the critical elements of a State's authorization application since it describes the program that the State plans to operate in managing hazardous wastes. The Program Description provides the State with opportunity to (1) discuss differences between the State and Federal programs and (2) demonstrate how the State program meets the tests for final authorization.

The information to be provided in the Program Description is specified in 40 CFR 271.6 (shown above). It will probably be easiest for the State and for reviewers, including EPA and the public, if the information is presented in the sequence shown in the regulations. The length of the Program Description will vary among States, depending on factors such as complexity of the State program, number of State agencies involved, extent of differences between the State and Federal programs, etc. Further guidance is provided below on selected elements of the Program Description; other elements are self-explanatory.

Scope, Structure, Coverage and Processes of State Program - §271.6(a)

In this section of the Program Description the State generally describes its program for control of hazardous waste. The description should show how the program satisfies the requirements for final authorization, reflecting the six statutory tests, as explained in Chapter 1.3.

The Program Description should show, in narrative terms, how the State program provides the coverage corresponding to 40 CFR Parts 261-265 and Parts 270 and 124 as required by the regulations at §271.9-13. In developing this description the State should find especially valuable the checklists (Appendix A of this Manual) completed by the Attorney General as part of his Statement. To the extent that the Attorney General's Statement does not explain differences which exist between the State and Federal programs, the differences should be described in the Program Description. For example, explanation may be needed to demonstrate that particular State standards are consistent with the Federal program. If the Attorney General did not complete the checklists, the State agency should complete the checklists and attach it to the Program Description. As in the case of Attorney General's Statement, however, the State Agency need not complete the checklists when the State has incorporated the federal regulations by reference.

Lead State Agency - §271.6(b)

In situations where more than one agency within a State has responsibility for administering the State program, the Program Description must identify one State agency as the "lead agency" for purposes of handling administrative matters between the State and EPA.

The identification of a lead agency is intended to simplify coordination and communication between the State and EPA, not to designate one agency as having the legal responsibility for the hazardous waste program. The MOA will reflect the legal responsibilities of the various State agencies and their interaction with EPA. The Program Description will describe the relationship of all State agencies involved in the implementation of the hazardous waste program and discuss how the lead agency will coordinate the activities of these agencies, particularly regarding their dealings with EPA. The "lead agency" will be the agency that other State agencies and EPA contact when an issue concerns one or more of the State agencies signing the MOA or when it is unclear which State agency should be contacted concerning a particular matter or issue.

State Procedures - §271.6(c)

This section should describe in detail the State's procedures for permitting. This description should address the steps in submitting a permit application, review of the application, and issuance or denial of the permit. Modification and revocation of permits should also be discussed. Public participation and any State administrative or judicial review procedures, along with the activities of any special boards, should be highlighted. Unique procedures, such as "permit-by-rule" provisions, should be described. If more than one State agency issues "RCRA" permits, any major differences in permitting procedures should be delineated.

This section is also appropriate for discussion of the State's procedures for revision of the State program. EPA regulations at §271.21(e) require that the State be able to revise its program within specific time periods after the Federal program is modified or supplemented. Though this provision does not become operative until the State is authorized, the State should nevertheless set forth in the Program Description the procedures and typical time frames for amending its statutes and regulations. [Note that EPA is pursuing a regulatory amendment to §271.21(e) which would extend the amount of time available to authorized States in responding to changes in the Federal program.]

Compliance Tracking and Enforcement - §271.6(e)

The State's Program Description must demonstrate the way in which the State compliance monitoring and enforcement program will operate in order to ensure:

1. that all operations of hazardous waste management facilities are conducted in accordance with State standards and permits issued under State standards that meet the requirements for final authorization; and

2. compliance by hazardous waste generators and transporters with applicable State standards that meet the requirements for final authorization.

The Federal regulations at §271.15(b)(2) require the State to maintain a program for periodic inspections of the facilities and activities subject to regulation. EPA recognizes that resource limitations may require that inspections be conducted in priority order, with "major" hazardous waste handlers being inspected at a greater frequency than the "non-major" ones. The actual number of inspections and the priorities for inspections will be negotiated annually between the State and EPA as part of the grant process and in accordance with the Annual RCRA Guidance.

It should be noted that EPA has developed a definition of "major" hazardous waste handlers to provide consistency in the designation of these activities by EPA and authorized States. States should use this definition and supporting criteria (discussed in PIG-82-2) in discussing its selection of "major" handlers.

In order to meet compliance tracking and enforcement goals, the State should demonstrate the adequacy of its program for:

1. Investigation of reported or suspected violations;

2. Follow-up inspections to ensure correction of detected violations;

3. Collection and analysis of samples during routine monitoring and pursuant to investigations of violations (e.g., chain of custody procedures);

4. Coordination with the Federal and/or State Departments of Transportation to ensure enforcement of applicable transporter requirements; and

5. Administrative/Judicial actions against violators.

Estimated Types and Number of Regulated Activities - §271.6(g)&(h)

The description of the estimated types and numbers of regulated activities is used for evaluating the adequacy of a State's program to regulate the activities of concern. Thus, the State should provide the best numerical estimates, based on existing data on hazardous waste activities in the identified categories.

The sample formats in Table 2 and Table 3 may be used for display of this information. Only those activities corresponding to activities regulated under the Federal program need to be included. States are encouraged to provide a brief narrative explanation of the estimates.

TABLE 2

Estimated Types and Number of Regulated Activities

ACTIVITY TYPE	PERMIT STATUS			TOTAL
	STATE INTERIM STATUS	STATE PERMIT	RCRA PERMIT	
Generators	n.a.	n.a.	n.a.	
Transporters	n.a.	n.a.	n.a.	
Storage Facilities on-site				
off-site				
Treatment Facilities on-site				
off-site				
Disposal Facilities on-site				
off-site				

TABLE 3

Annual Quantities of Hazardous Wastes

ACTIVITY	ANNUAL QUANTITIES
Generated in the State	
Transported	
into the State	
out of the State	
Stored, Treated, Disposed in the State	
on-site	
off-site	

CHAPTER 2.3

ATTORNEY GENERAL'S STATEMENT

Federal Requirement

§ 271.7 Attorney General's statement.

(a) Any State that seeks to administer a program under this subpart shall submit a statement from the State Attorney General (or the attorney for those State agencies which have independent legal counsel) that the laws of the State provide adequate authority to carry out the program described under § 271.6 and to meet the requirements of this subpart. This statement shall include citations to the specific statutes, administrative regulations and, where appropriate, judicial decisions which demonstrate adequate authority. State statutes and regulations cited by the State Attorney General or independent legal counsel shall be in the form of lawfully adopted State statues and regulations at the time the statement is signed and shall be fully effective by the time the program is approved. To qualify as "independent legal counsel" the attorney signing the statement required by this section must have full authority to independently represent the State agency in court on all matters pertaining to the State program.

Note:—EPA will supply States with an Attorney General's statement format on request.

(b) When a State seeks authority over activities on Indian lands, the statement shall contain an appropriate analysis of the State's authority.

Introduction

The following guidance is intended to assist the attorney preparing the Attorney General's Statement for Final Authorization under Section 3006(b) of The Solid Waste Disposal Act, as amended (RCRA, 42 U.S.C. §6901, *et seq.*). The Attorney General's Statement is a required element of a State's application for final authorization (see 40 CFR 271.7) which provides certification by the Attorney General (or the attorney for those State or interstate agencies which have independent legal counsel) that State law and regulations (and interstate compacts or agreements if applicable) provide adequate authority to meet the applicable requirements for final authorization and to carry out the State program in lieu of the Federal program.

In some States, the Attorney General is authorized to issue formal legal opinions which carry significant legal weight. The Attorney General's Statement need not be such a formal opinion of the Attorney General but must reflect his/her official legal opinion.

The attorney preparing the Attorney General's Statement should consult 40 CFR 271 Subpart A which contains the regulatory requirements for final authorization and discussions found in preambles at 45 Fed. Reg. 33377 - 33396. (Also see 46 FR 36704-36706.)

Purpose of the Attorney General's Statement

The Attorney General's Statement is a central part of a State's application for final authorization of the State's hazardous waste program and is relied on to identify what legal authorities exist in the State and whether those legal authorities are adequate to enable the State Program to operate in lieu of the Federal program. (See preamble discussion at 45 Fed. Reg. 33379). The application review process includes review by EPA attorneys at the Regional Offices and at Headquarters. Because EPA attorneys may not be familiar with the State's law, it is important that the Attorney General's Statement be as clear and detailed as possible in identifying and analyzing State legal authority. As part of the application, the Attorney General's Statement will be reviewed by the public; it will also be valuable both to the State and to EPA where the EPA decision on the final authorization of a State program is challenged. Furthermore, should it become necessary for EPA to take an enforcement action in the State after the State is authorized, EPA would rely on the Attorney General's Statement for an understanding of State law since the State law would be operating in lieu of Federal law.

Who Should Sign the Attorney General's Statement

The Attorney General's Statement must be signed by the State Attorney General or "the attorney for those State or interstate agencies that have independent legal counsel" (40 CFR 271.7(a)). This provision allows the following persons to sign the Attorney General's Statement: (1) the State Attorney General or an attorney in his/her office who is authorized to sign for the Attorney General; or, (2) a Deputy or Assistant Attorney General if authorized to do so. Authorization should be in writing, case law, or statute.

Independent legal counsel. As provided in 40 CFR 271.7(a), to qualify as independent legal counsel the attorney signing the Statement "must have full authority to independently represent the State Agency in court on all matters pertaining to the State program." Thus, independent legal counsel must have authority to enforce all aspects of the State program in court, including authority to enforce criminal violations of the State program, and to issue opinions interpreting the State law relevant to the program. Those opinions may not be subject to being superceded by the opinions of the

Attorney General. Whenever independent legal counsel signs the Attorney General's Statement, he/she must provide a statement explaining the scope of his/her authority and legal basis therefore.

If more than one agency of State government administers or enforces the State program, independent legal counsel for one participating agency may not certify as to the legal authority for aspects of the program administered or enforced by other agencies. In that case, certification must be made by the independent counsel for each agency or by the Attorney General.

The Model

1. General

The Model provided in this chapter suggests a format for the required certification and for the identification and analysis of State laws, regulations, and judicial decisions. The model is composed of the minimum legal elements and checklists corresponding to these elements. The checklists suggested for use with the Attorney General's Statement can be found in Appendix A. The Model is only a guide. The format may be varied as required by the needs of individual States. However, each Attorney General's Statement should contain at least the following:

A. Certification. The Attorney General's Statement must contain a general statement certifying, in narrative form, that State law provides adequate authority to carry out the program set forth in the Program Description.

B. Citations of Laws and Requirements. The Model provided below contains the legal elements which should be addressed by the Attorney General for final authorization. For each element, the Attorney General should cite the specific State enabling authority and the specific State regulations covering that element.

C. Attorney General's Analysis of Authorities. For each element provided in the Model, the Attorney General should analyze, in narrative form, whether, why, and how the cited authority provides the requisite authority for the relevant program requirements, including analysis of legislative history, State case law, or rules of construction where appropriate. (It may also be necessary for the Attorney General to provide analysis of the legal authority for certain promises made in the MOA as discussed on page 1.3-7). He/she should explain any problems or peculiarities in State authority, and identify any State legal requirements which may be less stringent or less inclusive than the Federal requirements. If, for example, the State's statutory definition of hazardous waste excludes waste pesticides, the Attorney General's analysis should include the precise scope of the exclusion and other relevant information (e.g., coverage of waste pesticides under other State statutory authority). Another example would be where the State's inspection authority applies only to the "premises" of certain parties; the Attorney General should explain the extent to which the State is authorized to inspect the vehicles of transporters of hazardous waste. Note that it will be the unusual instance where citation to authority without further analysis will suffice.

D. Date of Enactment of Laws and Adoption of Regulations. This information is important in light of the requirement under 40 CFR 271.7 that all regulations be adopted pursuant to State procedural requirements before the Attorney General's Statement is signed.

2. The Checklists

The Model contains references to checklists that are intended to assist the Attorney General in providing precise citation to specific EPA requirements and in eliminating the task of providing narrative explanation where State regulations do not differ from EPA regulations. The checklists are found in Appendix A. In addition, the checklists function to highlight those aspects of State law which require explanation or comment. Such explanation or comment is necessary wherever State law provides different coverage and should be attached to the checklist with "comment attached at ________" in the column for explanations or, if brief, included in that column. The Attorney General may choose to include the checklists as part of the Attorney General's Statement or to use them merely as a guide to all relevant Federal requirements. Checklists which are completed and included as part of the signed statement will be considered as part of the Attorney General's certification.

The checklists identify only in capsule narrative and by citation, all the relevant requirements for specific regulations. Therefore, it is imperative that attorneys preparing the Attorney General's Statement refer to the cited Federal regulations before providing the State citations. Note that the checklists cite all elements of the Federal program. State law may provide for some of these elements in a manner more stringent than the Federal program. States may include information on these more stringent elements to provide EPA and the public with a more complete description of the State program.

It is important to note that in order for the State to demonstrate that it qualifies for final authorization a detailed analysis of the State regulations is needed. EPA considers the use of these checklists to be the simplest method of achieving this demonstration. If the checklist is not included as part of the Attorney General's Statement, the Attorney General must use some other method of demonstrating that the State has specific regulations comparable to the Federal ones.

Incorporation of Federal Regulations by Reference

Where a State has incorporated by reference any Federal regulation, the Attorney General should demonstrate the authority to adopt State regulations in this manner. The Attorney General should cite the State statutes and regulations, listing the comparable CFR cite and date of incorporation. To the extent that the State incorporates by reference entire Parts or Subparts of the Federal regulations (e.g., 40 CFR Part 264 or Subpart A), there is no need to complete the checklist identifying each provision of the incorporated Part or Subpart. Where only certain sections of a Part or Subpart are incorporated, they should be identified on the checklist, but do not require further explanation. If the State's incorporation is intended to include any EPA revisions that may occur in the future, then the Attorney General should cite State authority both to promulgate and to enforce regulations in this manner.* The State should note that the Attorney General's Statement includes a certification that State statutes and regulations shall be fully effective by the time the program is approved.

State Jurisdiction over Indian lands

Some States may wish to assert jurisdiction over Indian lands in their RCRA final authorization application (see Element X of the Model). Pursuant to Federal law, EPA cannot approve a State's assertion of jurisdiction over Indian lands absent a clear and unambiguous expression of intent to confer State jurisdiction through either a Federal statute or an applicable treaty with an affected tribe. (Note that RCRA itself cannot be deemed such an expression of intent). In the absence of such a Federal statute or treaty, EPA has exclusive jurisdiction over Indian lands.

Establishing a Format to Meet Individual State Needs

There is no specific format which must be followed by each Attorney General in preparing the Attorney General's Statement for the Final Authorization application; this guidance is intended to provide only suggested options. It is recommended that the attorney preparing the Attorney General's Statement talk with the EPA Regional Counsel responsible for the State program early in the application process. It is essential that the format chosen for the Attorney General's Statement be coordinated with the formats chosen for other parts of the application developed by the staff of the State program.

EPA Review of Attorney General's Statements

Section 271.7 requires that the Attorney General's Statement include citations to statutes, regulations and judicial decisions which demonstrate that the State has adequate authority to administer its program in lieu of

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*State Attorneys General should note that a number of State Supreme Court cases hold that State statutes which adopt prospective Federal legislation or regulations constitute an unconstitutional delegation of legislative authority. *See*, *e.g.*, *State of North Dakota* v. *Julson*, 202 N.W.2d 145 (1972); *Dawson* v. *Hamilton*, 314 S.W.2d 532 (1958); *Cheney* v. *St. Louis Southwestern Railway Co.*, 239 Ark. 870, 394 S.W.2d 731 (1965); *State of West Virginia* v. *Ginstead*, 157 W. Va. 1001, 206 S.E.2d 912 (1974); *Schryver* v. *Schirmer*, 84 S.D. 352, 171 N.W.2d 634 (1969); *State* v. *Johnson*, 84 S.D. 536, 173 N.W.2d 894 (1970).

the Federal program. EPA has recommended that the Attorney General's Statement also include a narrative analysis of whether, why, and how the cited authority provides sufficient legal authority for the State program. In reviewing Attorney General's Statements for interim authorization, however, EPA found that in some instances narrative analyses were not provided. Where such analyses are missing in an Attorney General's Statement for final authorization, and EPA's review of the cited authority indicates that the law or regulation is ambiguous or does not appear to meet Federal requirements, EPA may ask the Attorney General to supplement his statement. He would be asked to address specific legal issues raised by the Agency's review of the State statutes and regulations cited by him. On occasion EPA may also ask that the Attorney General clarify or expand a prior narrative analysis.

The purpose of these requests is not to "second guess" the State Attorney General on matters of State law, but to assure that he has not overlooked major legal issues in arriving at his opinion. Most importantly, EPA must have a sound legal record for authorizing the State program. Without further comment from the Attorney General on certain issues, EPA generally cannot determine whether there is a plausible argument in support of the State's legal position that its laws and regulations meet the requirements of Federal law for State authorization.

For example, if the State Attorney General provides a general opinion that a State hazardous waste statute allows the State to regulate all hazardous waste facilities, but the statute appears to exempt surface impoundments, EPA would bring this issue to his attention and ask him to address it. In another example, if the hazardous waste statute or regulation appears to exclude waste pesticides, which EPA regulates, EPA would ask the State Attorney General to reconcile the difference in coverage. Once he has specifically addressed an issue requiring an interpretation of State law, however, EPA would defer to his opinion where it is supported by a plausible argument. In the last example, the Attorney General might explain that waste pesticides are regulated under a State statute dealing exclusively with pesticides.

EPA does not defer to a State Attorney General on matters of Federal law, including the issue of whether a State program (as interpreted by the State Attorney General) meets applicable Federal regulations. In the example above, EPA attorneys would accept the conclusion that Stae law provides authority to regulate waste pesticides but would draw on their own conclusions about whether the State authority is adequate to meet EPA requirements for program approval.

MODEL ATTORNEY GENERAL'S STATEMENT FOR FINAL AUTHORIZATION

I hereby certify, pursuant to my authority as ____________________ and in accordance with Section 3006(b) of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act, as amended (42 USC 6901, *et seq.*), and 40 CFR 271 that in my opinion the laws of the State [Commonwealth] of _______________ provide adequate authority to carry out the program set forth in the "Program Description" submitted by the [State Agency]. The specific authorities provided, which are contained in statutes or regulations lawfully adopted at the time this Statement is signed and which shall be fully effective by the time the program is approved, include those identified below.

I. IDENTIFICATION AND LISTING

A. State statutes and regulations define hazardous waste so as to control all the hazardous waste controlled under 40 CFR 261 as indicated in Checklist I A.

[Here the Attorney General should cite State statutes and regulations which define relevant terms such as "hazardous waste," "waste," "solid waste," "discarded substances," "substances for re-use and recycling," etc. including any exclusions from these definitions.]

[Federal Authority: RCRA §3001 (42 U.S.C. 6921); 40 CFR 261, 271.9.]

B. State statutes and regulations contain a list of hazardous waste and characteristics for identifying hazardous waste which encompass all wastes controlled under 40 CFR 261 as indicated in Checklist I B and C.

[Federal Authority: RCRA §3001(b) (42 U.S.C. 6921); 40 CFR 261, 271.9.]

II. STANDARDS FOR GENERATORS

State statutes and regulations provide coverage of all the generators covered by 40 CFR 262 as indicated in Checklist II.

[Federal Authority: RCRA §3002 (42 U.S.C. 6922); 40 CFR 262, 271.10]

III. STANDARDS FOR TRANSPORTERS

State statutes and regulations provide coverage of all the transporters covered by 40 CFR 263 as indicated in Checklist III.

[Federal Authority: RCRA §3003 (42 U.S.C. 6923); 40 CFR 263, 271.11]

IV. STANDARDS FOR FACILITIES

A. State statutes and regulations provide permit standards for hazardous waste management facilities covered by 40 CFR 264 as indicated in Checklist IV A.

[Federal Authority: RCRA §3004 (42 U.S.C. 6924); 40 CFR 264, 271.12]

[Where a State provides for interim status for facilities, analysis of the State's authority should be included here. Model language is presented in Section B below.]

B. State statutes and regulations provide for interim status and include interim status standards for hazardous waste management facilities covered by 40 CFR 265 as indicated in Checklist IV B.

1. State statutes and regulations authorize owners and operators of hazardous waste management facilities which would quality for interim status under the federal program to remain in operation until a final decision is made on the permit application;

2. State law and regulations authorize continued operation of hazardous waste management facilities provided that owners and operators of such facilities comply with standards at least as stringent as EPA's interim status standards at 40 CFR 265; and

3. State law and regulations assure that any facility qualifying for State interim status continues to qualify for Federal interim status.

[Federal Authority: RCRA §3005(e) (42 U.S.C. 6925); 40 CFR 265, 271.13(a)]

V. REQUIREMENTS FOR PERMITS

State statutes and regulations provide requirements for permits as indicated in Checklist V.

[Where there are no State regulations covering one or more of the procedural requirements designated in Checklist V, and the State has agreed in the MOA to follow equivalent requirements, the Attorney General's Statement must provide a discussion of the State's authority (1) to enter into such an agreement and (2) to carry out the agreement. This discussion should include an explanation of why (under any State administrative procedure act) the particular requirements the State has agreed to follow in the issuance of all hazardous waste permits need not be in the form of rules.]

[Federal Authority: RCRA §3005 (42 U.S.C 6925); RCRA §7004 (42 U.S.C. 6974); 40 CFR 271.13 and .14]

VI. INSPECTIONS

State law provides authority for officers engaged in compliance evaluation activities to enter any conveyance, vehicle, facility or premises subject to regulation or in which records relevant to program operation are kept in order to inspect, monitor, or otherwise investigate compliance with the State program including compliance with permit terms and conditions and other program requirements. (States whose law requires a search warrant prior to entry conform with this requirement).

[Federal Authority: RCRA §3007 (42 U.S.C. 6927), 40 CFR 271.15]

Citation of Laws and Regulations; Dates of Enactment and Adoption

Remarks of the Attorney General

VII. ENFORCEMENT REMEDIES

State statutes and regulations provide the following:

A. Authority to restrain immediately by order or by suit in State court any person from engaging in any unauthorized activity which is endangering or causing damage to public health or the environment.

[Federal Authority: RCRA §3006 (42 U.S.C. 6926); 40 CFR 271.16(a)(1)]

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

B. Authority to sue in courts of competent jurisdiction to enjoin any threatened or continuing violation of any program requirement, including permit conditions, without the necessity of a prior revocation of the permit.

[Federal Authority: RCRA §3006 (42 U.S.C. 6926); 40 CFR 271.16(a)(2)]

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

C. Authority to assess or sue to recover in court civil penalties in at least the amount of $10,000 per day for any program violation.

[Federal authority: RCRA §3006 (42 U.S.C. 6926); 40 CFR 271.16(a)(3)(i)]

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

D. Authority to obtain criminal penalties in at least the amount of $10,000 per day for each violation, and imprisonment for at least six months against any person who knowingly transports any hazardous waste to an unpermitted facility; who treats, stores, or disposes of hazardous waste without a permit; or who makes any false statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for the purposes of program compliance.

[Federal Authority: RCRA §3006 (42 U.S.C. 6926); 40 CFR 271.16(a)(3)(ii).]

Citation of Laws and Regulations; Dates of Enactment and Adoption

Remarks of the Attorney General

VIII. PUBLIC PARTICIPATION IN THE STATE ENFORCEMENT PROCESS

State laws and regulations provide for public participation in the State enforcement process by providing either:

A. Authority to allow intervention as of right in any civil or administrative action to obtain the remedies specified in Section VII A, B and C above by any citizen having an interest which is or may be adversely affected; or

B. Assurances that the State agency or enforcement authority will:

   (1) Investigate and provide written response to all citizen complaints duly submitted;

   (2) Not oppose intervention by any citizen where permissive intervention may be authoritized by statute, rule, or regulation; and

   (3) Publish and provide at least 30 days for public comment on any proposed settlement of a State enforcement action.

[Federal Authority: RCRA §7004 (42 U.S.C. 6974); 40 CFR 271.16(d)]

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

IX. AUTHORITY TO SHARE INFORMATION WITH EPA

State statutes and regulations provide authority for any information obtained or used in the administration of the State program to be available to EPA upon request without restriction.

[Federal Authority: RCRA §3007(b) (42 U.S.C. 6927); 40 CFR 271.17]

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

X. AUTHORITY OVER INDIAN LANDS

[Where a State seeks authority over Indian lands appropriate analysis of the State's authority should be included here.]

[Federal Authority: 40 CFR 271.7(b)]

Citation of Laws and Regulations; Dates of Enactment and Adoption

Remarks of the Attorney General

Seal of Office

Signature

Name (Type or Print)

Title

Date

CHAPTER 2.4

MEMORANDUM OF AGREEMENT

Federal Requirement

§ 271.8 Memorandum of Agreement with the Regional Administrator.

(a) Any State that seeks to administer a program under this subpart shall submit a Memorandum of Agreement (MOA). The Memorandum of Agreement shall be executed by the State Director and the Regional Administrator and shall become effective when approved by the Administrator. In addition to meeting the requirements of paragraph (b) of this section, the Memorandum of Agreement may include other terms, conditions, or agreements consistent with this subpart and relevant to the administration and enforcement of the State's regulatory program. The Administrator shall not approve any Memorandum of Agreement which contains provisions which restrict EPA's statutory oversight responsibility.

(b) All Memoranda of Agreement shall include the following:

(1) Provisions for the Regional Administrator to promptly forward to the State Director information obtained prior to program approval in notifications provided under section 3010(a) of RCRA. The Regional Administrator and the State Director shall agree on procedures for the assignment of EPA identification numbers for new generators, transporters, treatment, storage, and disposal facilities.

(5) No limitations on EPA compliance inspections of generators, transporters, or non-major HWM facilities under paragraph (b)(4) of this section shall restrict EPA's right to inspect any generator, transporter, or HWM facility which it has cause to believe is not in compliance with RCRA; however, before conducting such an inspection, EPA will normally allow the State a reasonable opportunity to conduct a compliance evaluation inspection.

(6) Provisions for the prompt transfer from EPA to the State of pending permit applications and any other information relevant to program operation not already in the possession of the State Director (e.g., support files for permit issuance, compliance reports, etc.). When existing permits are transferred from EPA to the State for administration, the Memorandum of Agreement shall contain provisions specifying a procedure for transferring the administration of these permits. If a State lacks the authority to directly administer permits issued by the Federal government, a procedure may be established to transfer responsibility for these permits.

(2) Provisions specifying the frequency and content of reports, documents and other information which the State is required to submit to EPA. The State shall allow EPA to routinely review State records, reports, and files relevant to the administration and enforcement of the approved program. State reports may be combined with grant reports where appropriate.

(3) Provisions on the State's compliance monitoring and enforcement program, including:

(i) Provisions for coordination of compliance monitoring activities by the State and by EPA. These may specify the basis on which the Regional Administrator will select facilities or activities within the State for EPA inspection. The Regional Administrator will normally notify the State at least 7 days before any such inspection; and

(ii) Procedures to assure coordination of enforcement activities.

(4) Provisions allowing EPA to conduct compliance inspections of all generators, transporters, and HWM facilities in each year for which the State is operating under final authorization. The Regional Administrator and the State Director may agree to limitations on compliance inspections of generators, transporters, and non-major HWM facilities.

Note.—For example, EPA and the State and the permittee could agree that the State would issue a permit(s) identical to the outstanding Federal permit which would simultaneously be terminated.

(7) Provisions specifying classes and categories of permit applications, draft permits, and proposed permits that the State will send to the Regional Administrator for review, comment and, where applicable, objection.

(8) When appropriate, provisions for joint processing of permits by the State and EPA, for facilities or activities which require permits from both EPA and the State under different programs. See § 124.4

Note.—To promote efficiency and to avoid duplication and inconsistency, States are encouraged to enter into joint processing agreements with EPA for permit issuance.

(9) Provisions for the State Director to promptly forward to EPA copies of draft permits and permit applications for all major HWM facilities for review and comment. The Regional Administrator and the State Director may agree to limitations regarding review of and comment on draft permits and/or permit applications for non-major HWM facilities. The State Director shall supply EPA copies of final permits for all major HWM facilities.

(10) Provisions for the State Director to review all permits issued under State law prior to the date of program approval and modify or revoke and reissue them to require compliance with the requirements of this subpart. The Regional Administrator and the State Director shall establish a time within which this review must take place.

(11) Provisions for modification of the Memorandum of Agreement in accordance with this subpart.

(c) The Memorandum of Agreement, the annual program grant and the State/EPA Agreement should be consistent. If the State/EPA Agreement indicates that a change is needed in the Memorandum of Agreement, the Memorandum of Agreement may be amended through the procedures set forth in this subpart. The State/EPA Agreement may not override the Memorandum of Agreement.

Note.—Detailed program priorities and specific arrangements for EPA support of the State program will change and are therefore more appropriately negotiated in the context of annual agreements rather than in the MOA. However, it may still be appropriate to specify in the MOA the basis for such detailed agreements, e.g., a provision in the MOA specifying that EPA will select facilities in the State for inspection annually as part of the State/EPA agreement.

Introduction

The Memorandum of Agreement (MOA) is the vehicle for specifying areas of coordination and cooperation in the respective roles and responsibilities of EPA and the authorized State. As such, the MOA should be a dynamic instrument, reviewed and revised annually to accommodate changes in the maturing State-EPA relationship.

The MOA provides for the transfer of permit issuance responsibility from EPA, establishes a framework for EPA overview of the administration and enforcement of the approved program, and provides for the exchange of information between EPA and the State. The MOA may also contain other other State-EPA agreements that are relevant to the implementation of the hazardous waste program, such as State agreement to employ certain procedures analogous to those of 40 CFR 270 and 124 as described on page 1.3-7 of this Manual. The effective date of the MOA will be the date that the notice of the State's authorization is published in the Federal Register.

Model

The following Model has been written as a guide to meeting the requirements of 40 CFR 271.8. It is based on the premise that the MOA is to complement other elements of the State program submission by focusing on the area of State-EPA coordination. Several areas where the Region and the State may need or want to expand the basic framework have been noted in brackets. Each Region undoubtedly will have additional terms it will want to include in some or all of its MOA's. For illustrative purposes the contents of the Model are outlined below.

I. General
II. Policy Statement
III. State Program Review
    A. General
    B. Identification of Major Hazardous Waste Handlers
IV. Information Sharing
    A. General
    B. EPA
    C. State
    D. Site Visits
    E. Emergency Situations
    F. Confidentiality
V. Permit Issuance
    A. EPA Permitting
    B. EPA Overview of State Permits
    C. State Permitting
VI. Permit Administration
    A. EPA
    B. State
VII. Compliance Monitoring and Enforcement
    A. EPA
    B. State

Signatories

Generally, the MOA is signed by the State Director and the Regional Administrator. While the regulations at §271.8(a) require the approval of the Administrator of EPA before the MOA can become effective, EPA Delegation 8-7, "State Hazardous Waste Programs and State Program Submittals," allows the Regional Administrator to sign the MOA on behalf of the Administrator.

EPA regulations at §270.2 define State Director as:

> ...the chief administrative officer of any State or interstate agency operating an approved program, or the delegated representative of the State Director. If responsibility is divided among two or more State or interstate agencies, State Director means the chief administrative officer of the State or interstate agency authorized to perform the particular procedure or function to which reference is made.

Where the directors of two or more State agencies share substantive responsibilities for the functions described in the MOA (e.g., one agency has responsibility for the issuance of permits to hazardous waste incinerators and another for disposal facilities), the directors of each of those agencies must sign the MOA with EPA. The MOA must clearly indicate the specific responsibilities assumed by each of the State Directors and must describe how they will share and coordinate implementation of those provisions of the MOA which concern more than one State agency. This may be done in a separate section of the MOA or by designating specific State agency responsibilities throughout the text of the MOA.

Note that where the divergence of responsibility involves solely enforcement authority, an agreement among the State agencies would be allowed as an alternative to having each enforcement arm sign the MOA. Agreements with enforcement agencies of local units of government are not required.

MEMORANDUM OF AGREEMENT

BETWEEN

THE STATE OF __________

AND

THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION __

I. GENERAL

This Memorandum of Agreement (hereinafter "Agreement") establishes policies, responsibilities, and procedures pursuant to 40 CFR 271.8 for the State of ______________ Hazardous Waste Program (hereafter "State Program") authorized under Section 3006 of the Resource Conservation and Recovery Act (hereinafter "RCRA" or "the Act") of 1976 (Public Law 94-580, 42 USC §6901 et seq.) and the United States Environmental Protection Agency (hereafter EPA) Regional Office for Region ___. This agreement further sets forth the manner in which the State and EPA will coordinate in the State's administration of the State program.

This Agreement is entered into by the Director [or other title as appropriate] of [State Agency] (hereinafter "Director" or "the State") and the Regional Administrator, EPA Region _____ (hereinafter "Regional Administrator" or "EPA"). [Where State program responsibility is shared among two or more agencies, each of the agencies is to be identified here as a party to the Agreement, the director of each is to sign the Agreement, and the Agreement must identify which of the agencies is responsible for each provision of the Agreement.]

For administrative purposes, the [State Agency] will serve as lead agency to simplify coordination and communication between the State and EPA. [This provision need not be included in the MOA where there is only one responsible State Agency.]

Nothing in this agreement shall be construed to restrict in any way EPA's authority to fulfill its oversight and enforcement responsibilities under RCRA. Nothing in this agreement shall be construed to contravene any provision of 40 CFR Part 271.

The parties will review the Agreement jointly at least once a year (and other times as appropriate) during preparation of the annual State Grant Work Program (hereinafter "State Work Program"), in connection with grant funding under section 3011 of RCRA.

This Agreement may be modified upon the initiative of either party in order to ensure consistency with State program modifications made or for any other purpose mutually agreed upon. Any revisions or modifications must be in writing and must be signed by the State and the Regional Administrator.

This Agreement will remain in effect until such time as State program authorization is withdrawn by or is voluntarily transferred to EPA according to the criteria and procedures established in 40 CFR 271.22 and 40 CFR 271.23.

This Agreement shall be executed by the State and the Regional Administrator and shall become effective at the time the State's authorization takes effect, which shall be the date of publication in the Federal Register of EPA's decision to grant authorization to the State.

II. POLICY STATEMENT

Each of the parties to this Agreement is responsible for ensuring that its obligations under RCRA are met. Upon granting final authorization by EPA, the State assumes primary responsibility for implementing the RCRA hazardous waste program within its boundaries. EPA retains its responsibility to ensure full and faithful excecution of the requirements of RCRA, including direct implementation in the event the State is unable to act. The State and the Regional Administrator agree to maintain a high level of cooperation and coordination between their respective staffs in a partnership to assure successful and effective administration of the State program.

EPA assumes an oversight role upon granting final authorization to the State. EPA will oversee State program implementation in order to ensure full execution of the requirements of RCRA, to promote national consistency in implementation of the hazardous waste program, to allow EPA to report to the President and Congress on the achievements of the hazardous waste program, and to encourage States and the EPA to agree on desirable technical support and targets for joint efforts to prevent and mitigate environmental problems associated with the improper management of hazardous wastes. Oversight will be accomplished by EPA through written reporting requirements, permit overview, compliance and enforcement overview, and annual review of States' programs.

III. STATE PROGRAM REVIEW

A. General

The Regional Administrator will assess the State administration and enforcement of the hazardous waste program on a continuing basis for equivalence and consistency with RCRA, with this Agreement, and with all applicable Federal requirements and policies and for adequacy of enforcement. This assessment will be accomplished by EPA review of information submitted by the State in accordance with this Agreement and the State Work Program, permit overview, compliance and enforcement overview, and annual review of State program activities. The Regional Administrator may also consider, as part of this regular assessment, written comments about the State's program administration and enforcement that are received from regulated persons, the public, and Federal, State and local agencies. Copies of any such comments received by the Regional Administrator will be provided to the State.

To ensure effective program review, the State agrees to allow EPA access to all files and other information requested by the Regional Administrator and deemed necessary for reviewing State program administration and enforcement.

Review of [State Agency] files may be scheduled at quarterly intervals. Program review meetings between the State and the Regional Administrator or their assignees will be scheduled at reasonable intervals not less than annually to review specific operating procedures and schedules, to resolve problems and to discuss mutual program concerns. These meetings will be scheduled at least fifteen days in advance unless agreed to differently. A tentative agenda for the meeting will be prepared by EPA.

B. Identification of Major Hazardous Waste Handlers

The State agrees to develop with EPA a list of hazardous waste facilities, generators and transporters in the State designated as "major" hazardous waste handlers. This designation is intended to identify, for administrative purposes, environmentally significant hazardous waste handlers, and to be used in concentrating inspection, permitting and reporting resources on those handlers. The list shall be submitted as a part of this agreement. It shall be reviewed and updated annually and more often as necessary. Changes to the list do not require a formal amendment to this Agreement so long as both the State and EPA agree in writing to any changes.

From the list of "major" handlers the State agrees to develop and annually review with the Regional Administrator a list of facilities whose permit applications and draft permits will be reviewed by EPA. This smaller list constitutes major facilities for purposes of EPA permit overview.

IV. INFORMATION SHARING

A. General

As the national hazardous waste program matures, the respective roles and responsibilities in this State/Federal parternship will become more clear. As the respective information needs of the State and EPA evolve, changes to this section of the Agreement may be appropriate. During the annual review of this agreement the State and the Regional Administrator will carefully examine the following information sharing provisions for needed revision.

B. EPA

1. EPA will keep the State informed of the content and meaning of Federal statutes, regulations, guidelines, standards, policy decisions, directives, and any other factors that affect the State Program. EPA will also provide general technical guidance to the State. EPA will share with the State any national reports developed by EPA from the data submitted through State reporting requirements.

2. EPA agrees to provide the State notification information from EPA Form 8700-12 obtained prior to the effective date of this agreement. A copy of the original notification forms and/or a computer print-out containing all the notification information will be provided. Such information will be provided to the Director within thirty days of the effective date of this Agreement. EPA will also forward, on a monthly basis, notification information (including newly assigned EPA identification numbers) submitted by persons in the State who file such forms after the effective date of this Agreement. This information will be submitted to the Director within ten days of the end of each month for the preceding month.

3. EPA agrees to assign EPA identification numbers to generators and transporters and to owners and operators of hazardous waste treatment, storage, and disposal facilities submitting notifications to the State after the effective date of this Agreement. EPA will do this after receiving a copy of the notification information from the State as provided in Section IV.C.7 of this Agreement.

4. EPA agrees to transfer to the State any pending Part A and Part B hazardous waste management facility permit applications originally submitted to EPA pursuant to 40 CFR 270.10 by facilities located in the State and which have not already been transferred to the State, together with all pertinent file information. Pertinent file information includes applications (including accompanying narratives, plans, maps, etc.), draft permits, public notices, administrative notices, fact sheets and correspondence. Such materials will be provided within thirty days after the effective date of this agreement and according to any arrangements the State and the Regional Administrator may make regarding the priority of transfer.

   [The Region may want to work out an agreement with the State to transfer some of this information at a later date. For example, the transfer of some EPA permit information may be given a lower priority if the State has previously issued a joint permit with EPA or the State has issued substantially equivalent permits under interim authorization for certain facilities.]

5. EPA will also provide to the State, within five days of receipt, Part A and Part B permit applications submitted directly to EPA by persons in the State after the effective date of this Agreement.

6. EPA agrees to make available to the State copies of any reports and data resulting from compliance inspections within sixty days of completion of the inspections.

7. EPA will make available to the State other relevant information as requested which the State needs to implement its approved program.

C. State

1. The State agrees to inform the Regional Administrator of any proposed or adopted program changes which would affect the State's ability to implement the authorized program. Program changes of concern include modification of the State's legal authorities (i.e. statutes, regulations and judicial or legislative actions affecting those authorities), modifications of memoranda of agreement or understanding with other agencies, and modifications of resource levels (i.e., available or budgeted personnel and funds). The State recognizes that program revisions must be made in accordance with the provisions of 40 CFR 271.21.

2. The State will provide compliance monitoring and enforcement information to the Regional Administrator on a routine basis as specified in the State Work Program. During fiscal year 1984 the Regional Administrator will be especially concerned with information on facility ground-water monitoring, financial responsibility, and closure and post-closure care.

3. As specified in the State Work Program, the State will routinely provide the Regional Administrator with information indicating the status of the State's facility permitting activities. During fiscal year 1984 the Regional Administrator will be especially concerned with facility-specific information on the following milestones:

   - Date permit application requested
   - Date complete permit application received
   - Date of Public Notice
   - Date of permit application withdrawal (and reason)
   - Date of permit issuance/denial

4. The State agrees to submit the following reports to the Regional Administrator within the specified time periods:

   - o Biennial report summarizing the quantities and types of hazardous waste generated, transported, treated, stored, and disposed in the State as specified in the RCRA Guidance, by October 1 of each even-numbered year.

   - o Additional reports as negotiated in the State Work Program.

5. Where the State program involves the granting of variances or waivers, the State agrees to provide EPA with a copy of each State variance or waiver at the time it is granted. [The Regional Administrator and State may negotiate a process for EPA review of proposed variances or waivers. Terms of this agreement should be specified in the MOA.]

6. For those major hazardous waste handlers identified as major facilities for EPA permit overview (see Section III), the State agrees to provide EPA with the following information within the time frames described:

o Copies of facility permit applications, revisions and additions	Within fifteen working days of receipt
o Copies of draft permits, proposed permit modifications, public notices	Within five working days of completion
o Copies of final permit or permit modifications	Within five working days of completion

7. So that EPA can issue EPA identification numbers and maintain a national inventory of all hazardous waste handlers, the State agrees to provide EPA with the following notification information submitted to the State after the effective date of this Agreement by new hazardous waste generators, transporters and treatment, storage and disposal facilities in the State:

    - name and location of the handler
    - mailing address of the handler
    - name and telephone number of a contact person
    - type of hazardous waste activity
    - process codes (if the handler is a TSDF)

    The State will also submit any updates or changes in previously submitted notification information. This information will be provided to the Regional Administrator within ten-days of receipt of the information.

8. The State agrees to provide EPA with copies of reports on data resulting from any compliance inspection and subsequent enforcement actions, if EPA requests such copies.

D. Site Visits

EPA is responsible for maintaining reliable national data on hazardous waste management. This data is used to report to the President and Congress on the achievements of the hazardous waste program and to support EPA's regulatory development efforts. Whenever EPA determines that it needs to obtain certain information, EPA will first seek to gain this information from the State. The State agrees to supply the Regional Administrator with this information if readily available and as resources allow. If the State is unable to provide the information or if it is necessary to supplement the State information, EPA may conduct a special survey or perform information collection site visits after notifying the State. EPA will share with the State any national reports developed by EPA as a result of such information collection.

E. Emergency Situations

Upon receipt of any information that the handling, storage, treatment, transportation, or disposal of hazardous waste is endangering human health or the environment, the party in receipt of such information shall immediately notify by telephone the other party(ies) to this

Agreement of the existence of such situation. [Include details here for information sharing, names and titles of individuals, telephone numbers, etc.]

F. Confidentiality

1. Any information obtained or used in the administration of the State program shall be available to EPA upon request without restriction. If the information has been submitted to the State under a claim of confidentiality, the State must submit that claim to EPA when providing information. Any information obtained from a State and subject to a claim of confidentiality will be treated in accordance with the regulations in 40 CFR Part 2.

2. EPA agrees to furnish to the State information in its files which is not submitted under a claim of confidentiality and which the State needs to implement its program. Subject to the conditions in 40 CFR Part 2, EPA will furnish the State information submitted to EPA under a claim of confidentiality which the State needs to implement its program. All information EPA agrees to transfer to the State will be transferred in accordance with the requirements of 40 CFR Part 2.

V. PERMIT ISSUANCE

A. EPA Permitting

Upon final authorization of the State program EPA will suspend issuance of Federal permits for hazardous waste treatment, storage, and disposal facilities in the State. [Each Region should try to make special arrangements with the State for the State to assume responsibility for issuing particular permits EPA has been working on; the State will need specific authority to assume responsibility in the midst of the process, unless the proceedings have been joint, with both Federal and State administrative procedures followed up to the time the State assumes full responsibility.]

EPA intends to add permitting standards for processes not currently covered by the Part 264 standards. For example, the Part 264 standards do not currently cover treatment and storage of hazardous waste in certain types of underground tanks. When EPA does promulgate standards for additional processes, EPA will process and enforce RCRA permits in the State in the new areas until the State receives final authorization of equivalent and consistent State standards. At the time the State program is approved in the new areas, EPA will suspend issuance of Federal permits in the State. EPA will also transfer any pending permit applications, completed permits or pertinent file information to the State within thirty days of the approval of the State program in conformance with the conditions of this agreement.

B. EPA Overview of State Permits

While EPA may comment on any permit application or draft permit, EPA's overview function will focus primarily on those facilities identified by the State and EPA as major facilities for permit overview.

EPA may comment in writing on any draft permit or proposed permit modification, whether or not EPA commented on the permit application, within forty-five days of its receipt. [EPA should be allowed at least as long to comment as the public at large; this time period should probably be tied to each State's public participation process.] Where EPA indicates in a comment that issuance of the permit would be inconsistent with the approved State program, EPA shall include in the comment:

(a) a statement of the reasons for the comment (including the section of the State regulations that support the comment); and

(b) the actions that should be taken by the State in order to address the comments (including the conditions which the permit would include if it were issued by EPA.)

EPA shall send a copy of its written comments to the permit applicant.

EPA shall withdraw such comments when satisfied that the State has met or refuted its concerns and shall also provide the permit applicant with a copy of such withdrawal.

[Insert here any agreement the Region makes with the State regarding resolution of EPA comments on draft permits before final permit issuance by the State, e.g., the State and the RA agree to meet or confer whenever necessary to resolve a disagreement between their staffs on the terms of any RCRA permit to be issued by the State. The Region may want to add a specific time limit within which the State and RA will meet.]

Under Section 3008(a)(3) of RCRA, EPA may terminate a State issued permit in accordance with the procedures of Part 124, Subpart E, or bring an enforcement action in accordance with the procedures of 40 CFR Part 22 in the case of a violation of a State program requirement. In exercising these authorities, EPA will observe the conditions established in 40 CFR 271.19(e).

C. State Permitting

The State is responsible for expeditiously drafting, circulating for public review and comment, issuing, modifying, reissuing and terminating RCRA permits for all hazardous waste treatment, storage and disposal facilities in the State, and shall do so in a manner consistent with RCRA, with this Agreement, with all applicable Federal requirements, and with the State's Program Description.

[Insert here any agreement the State makes regarding (1) its assumption of permit issuance in ongoing EPA permit proceedings and (2) its enforcement, adoption or reissuance of EPA-issued RCRA permits. Note that the State must have specific authority to either assume administration and enforcement of EPA-issued permits or to adopt them as State permits; otherwise the State must reissue the permits as State RCRA permits.]

The State agrees to issue, modify and reissue all permits in accordance with [insert citation to relevant State procedural environmental statutes and regulations and administrative procedures act and regulations] and to include as permit conditions all applicable provisions of [insert citation to relevant State environmental regulations]. This agreement also applies to permits issued after final authorization but for which the processing may have begun before final authorization.

[Insert here any agreement the State makes that is necessary to carry out the permitting procedures analogous to those at 40 CFR Parts 270 and 124. See pages 1.3-7 for discussion.]

[Insert here any agreement the State makes regarding its use of any variance or waiver authority. See page 1.3-8 for discussion.]

The State agrees that any compliance schedules contained in permits it issues will require compliance with applicable standards as soon as possible. [Insert here any agreement the State makes regarding interim dates, reporting for such permittees, etc.]

The State agrees to consider all comments EPA makes on permit applications and draft permits. The State will satisfy or refute EPA's concerns on a particular permit application, proposed permit modification, or draft permit in writing before issuing the permit or making the modification.

VI. PERMIT ADMINISTRATION

A. EPA

[If the State has authority to directly administer permits issued by the Federal government, this section is inapplicable and the Region should insert provisions for transferring responsibility for all Federal permits to the State.]

EPA will administer the RCRA permits it has issued to facilities in the State until they expire or are terminated. EPA will be responsible for enforcing the terms and conditions of the Federal permits while they remain in force. When the State either incorporates the terms and conditions of the Federal permits in State RCRA permits or issues State RCRA permits to those facilities, EPA will primarily rely on the State to enforce those terms and conditions.

B. State

The State agrees to review all hazardous waste permits which were issued under State Law prior to the effective date of this agreement and to modify or revoke and reissue such permits as necessary to require compliance with [insert citation to relevant State environmental statutes and regulations and administrative procedures act and regulations equivalent to the 40 CFR 265 requirements] and [insert citation to relevant State environmental regulations]. The State agrees to modify or revoke and reissue these State permits as RCRA permits in accordance with the following schedule. [EPA intends that the schedule in the MOA provide a reasonable time period for the review and upgrading of existing State permits, based on such factors as the number of State permits and the additional permit terms and conditions needed to satisfy the requirements of Part 271.]

VII. COMPLIANCE MONITORING AND ENFORCEMENT

A. EPA

Nothing in this agreement shall restrict EPA's right to inspect any hazardous waste generator, transporter or facility or bring enforcement action against any person believed to be in violation of the State hazardous waste program. Before conducting an inspection of a generator, transporter or facility, the Regional Administrator will normally give the State at least seven days notice of the intent to inspect in accordance with 40 CFR 271.8(b)(3)(i). [The Regional Administrator and State may agree on a longer period of time in order to allow the State opportunity to conduct the inspection.] If the State performs a compliance inspection and submits a report and data relevant thereto within that time to EPA, no EPA inspection will be made, unless the Regional Administrator deems the State report and data to be inadequate. In case of an imminent hazard to human health and the environment, the Regional Administrator may shorten or waive the notice period.

The frequency of EPA oversight and training inspections will be specified in the annual State Work Program. Normally, EPA will accompany the State on no more than 5% of the State's compliance inspections.

The Regional Administrator may take enforcement action against any person determined to be in violation of RCRA in accordance with Section 3008(a)(2). EPA will take enforcement action only upon determining that the State has not taken timely and appropriate enforcement action. Prior to issuing a compliance order under Section 3008 EPA will give notice to the State. EPA also retains its rights to issue orders and bring actions under Sections 3013 and 7003 of RCRA and any other applicable Federal statute.

After notice to the State, EPA may take action under Section 3008 of RCRA against a holder of a State issued permit on the ground that the permittee is not complying with a condition of that permit. In addition, EPA may take action under Section 3008 of RCRA against a holder of a State issued permit on the ground that the permittee is not complying with a condition that the Regional Administrator in commenting on that permit application or draft permit stated was necessary to implement approved State program requirements, whether or not that condition was included in the final permit.

B. State

The State agrees to carry out a timely and effective program for monitoring the compliance by generators, transporters, and facilities with applicable program requirements (see 40 CFR 271.15). As part of this program, the State will conduct compliance inspections to assess compliance with generator and transporter standards (including manifest requirements), facility standards, permit requirements, compliance schedules, and all other program requirements. Compliance monitoring activities and priorities will be specified in the annual State Work Program and shall be consistent with all applicable Federal requirements and with the State's Program Description.

[Insert any agreement the Region makes with the State regarding inspections at EPA-permitted facilities. Individuals in the State program may be designated as EPA representatives under Section 3007 of RCRA so that they can inspect the facilities for violations of the terms and conditions of the Federal permits.]

The State agrees to take timely and appropriate enforcement action against all persons in violation of generator and transporter standards (including manifest requirements), facility standards, permit requirements, compliance schedules, and all other program requirements, including violations detected by State or Federal compliance inspections. The State will maintain procedures for receiving and ensuring proper consideration of information about violations submitted by the public.

Appropriate State enforcement response may include not more than two warning letters for any violation, followed by timely initiation and prosecution of enforcement proceedings which may be, as determined on a case-by-case basis, administrative or judicial in nature. Any civil penalty assessed, sought, or agreed upon by the State shall be appropriate to the violation, as defined in 40 CFR 271.16(c).

The State agrees to retain all records for at least three years unless there is an enforcement action pending. In that case all records will be retained until such action is resolved.

STATE OF ____________ AGENCY ____________	U.S. ENVIRONMENTAL PROTECTION AGENCY REGION ________
BY: ____________	BY: ____________
DATE: ____________	DATE: ____________

CHAPTER 2.5

SHOWING OF PUBLIC PARTICIPATION

Federal Requirement

§ 271.20 Approval process.

(a) Prior to submitting an application to EPA for approval of a State program, the State shall issue public notice of its intent to seek program approval from EPA. This public notice shall:

(1) Be circulated in a manner calculated to attract the attention of interested persons including:

(i) Publication in enough of the largest newspapers in the State to attract statewide attention; and

(ii) Mailing to persons on the State agency mailing list and to any other persons whom the agency has reason to believe are interested;

(2) Indicate when and where the State's proposed submission may be reviewed by the public;

(3) Indicate the cost of obtaining a copy of the submission;

(4) Provide for a comment period of not less than 30 days during which time interested members of the public may express their views on the proposed program;

(5) Provide that a public hearing will be held by the State or EPA if sufficient public interest is shown or, alternatively, schedule such a public hearing. Any public hearing to be held by the State on its application for authorization shall be scheduled no earlier than 30 days after the notice of hearing is published;

(6) Briefly outline the fundamental aspects of the State program; and

(7) Identify a person that an interested member of the public may contact with any questions.

(b) If the proposed State program is substantially modified after the public comment period provided in paragraph (a)(4) of this section, the State shall, prior to submitting its program to the Administrator, provide an opportunity for further public comment in accordance with the procedures of paragraph (a) of this section. Provided, that the opportunity for further public comment may be limited to those portions of the State's application which have been changed since the prior public notice.

(c) After complying with the requirements of paragraphs (a) and (b) of this section, the State may submit, in accordance with § 271.3, a proposed program to EPA for approval. Such formal submission may only be made after the date of promulgation of the last component of Phase II. The program submission shall include copies of all written comments received by the State, a transcript, recording, or summary of any public hearing which was held by the State, and a responsiveness summary which identifies the public participation activities conducted, describes the matters presented to the public, summarizes significant comments received and responds to these comments.

Introduction

The State is required under §271.20(a)-(c) to provide the public with an opportunity to comment on the proposed program application before it is submitted to EPA for approval. A comment period of at least 30 days is to be provided and, if sufficient interest is shown, a public hearing is to be held no sooner than 30 days after the notice of hearing is published. The State is required to submit the record of this public participation as part of its authorization application.

Content

The State must demonstrate compliance with §271.20(a)-(c) by submitting the following materials to EPA:

1. All written comments received by the State,
2. A transcript (preferred), recording, or summary of any public hearing which was held by the State, and
3. A responsiveness summary which identifies the public participation activities conducted, describes the matters presented to the public, summarizes significant comments received and responds to the comments.

CHAPTER 2.6

STATE STATUTES AND REGULATIONS

Federal Requirement

§ 271.5 Elements of a program submission.

(a) Any State that seeks to administer a program under this part shall submit to the Administrator at least three copies of a program submission. The submission shall contain the following:

(1) A letter from the Governor of the State requesting program approval;

(2) A complete program description, as required by § 271.6 describing how the State intends to carry out its responsibilities under this subpart;

(3) An Attorney General's statement as required by § 271.7;

(4) A Memorandum of Agreement with the Regional Administrator as required by § 271.8;

(5) Copies of all applicable State statutes and regulations, including those governing State administrative procedures; and

(6) The showing required by § 271.20(c) of the State's public participation activities prior to program submission.

Introduction

The legal basis of State hazardous waste programs is found in the State statutes and regulations.

Therefore, it is incumbent on the State to supply copies of all applicable legal, regulatory and administrative documents needed to evaluate the State's authority and to support the State application.

Content

Copies of all State hazardous waste management statutes and regulations must be included in the program submission. This includes copies of all State statutes and regulations cited by the Attorney General in his statement. For example, portions of the State Administrative Procedure Act applicable to the proposed hazardous waste program must also be submitted. Where State statutes and regulations have been amended, EPA requests that States submit up-to-date sets which incorporate all changes. This will greatly facilitate EPA's review.

CHAPTER 2.7

STATE LEGISLATION CHECKLIST

Introduction

The checklist which follows is provided to aid attorneys and others in reviewing and documenting State hazardous waste enabling authority for Final Authorization under Section 3006(b) of the Solid Waste Disposal Act, as amended (RCRA). EPA attorneys are encouraged to involve attorneys in State Attorney Generals Offices or other State legal counsel in such reviews. States are advised to look broadly to their legislative authorities in assessing their programs.

To obtain final authorization, a State must have the enabling authority to establish a hazardous waste management program which meets the requirements of 40 CFR Part 271, Subparts A and B. Anyone using the checklist should refer to Part 271 (and the regulations in Parts 270, 124 and 260-265 to the extent they are referenced in Part 271) for a full understanding of the regulations for which a State must have enabling authority.

Attorneys should look at all relevant State statutory authority, not just a particular statute, when assessing State hazardous waste legislative authority. For example, State administrative procedure acts are often relevant. Most elements in the checklist identify enabling authority required for Final Authorization. Five elements, however, ("importation ban", "variance provisions", "exemptions", "information sharing" and "siting") are included as a means of identifying and recording features of State law which may negatively affect a State's ability to receive final authorization.

This checklist is intended for use as an evaluation tool and it provides valuable assistance to EPA reviewers if submitted as part of the application for Final Authorization. Also, this checklist should be of use to the State in identifying appropriate citations and comments to aid in developing the Attorney General's Statement which is an essential element of the application.

STATE LEGISLATION CHECKLIST

State ______________________________

Title(s) of Legislation ____________________ Date Enacted __________

____________________ Date Enacted __________

____________________ Date Enacted __________

Reviewed by ______________________________ DATE ______________

STATUTORY ELEMENT	STATE CITE	COVERAGE YES/NO?	COMMENT

DEFINITIONS

The State needs the authority to define the following terms in a manner at least as stringent as the Federal program. If definitions of these terms appear in State statutes, they must be at least as stringent as the analogous Federal Statutory or regulatory definition.

Disposal			
Generator			
Hazardous Waste*			
Manifest			
Person			
Storage			
Transport			
Treatment			
Treatment, Storage or Disposal Facility			
Waste (Solid)			

* Note that the State must have authority to regulate the recycling and reuse of hazardous waste in a manner at least as stringent as the Federal program does.

HAZARDOUS WASTE IDENTIFICATION AND LISTING - [See 40 CFR §271.9]

Authority for: 1. HW characteristics			
2. HW list			

STATUTORY ELEMENT	STATE CITE	COVERAGE YES/NO?	COMMENT

STANDARDS FOR GENERATORS - [See 40 CFR §271.10]

The State needs the authority to regulate all generators EPA regulates under 40 CFR Part 262.

Authority to promulgate regulations on: 1. I.D. Numbers			
2. Requiring generator to determine whether waste is hazardous			
3. Recordkeeping practices			
4. Packaging, labeling, marking and placarding practices			
5. Use of appropriate containers			
6. Furnishing information			
7. Use of manifest consistent with DOT and EPA			
8. International Shipments			
9. Designation of and delivery to permitted facilities			
10. Investigation of unreturned shipments			
11. Submission of reports			

STANDARDS FOR TRANSPORTERS - [See 40 CFR §271.11]

The State needs the authority to regulate all transporters EPA regulates under 40 CFR Part 263.

Authority to promulgate regulations on: 1. I.D. numbers			
2. Recordkeeping			
3. Labeling			
4. Compliance with manifest system			
5. Spill notification			
6. Spill clean-up			

STATUTORY ELEMENT	STATE CITE	COVERAGE YES/NO?	COMMENT
7. Transportation to permitted facility			
8. Consistency with DOT regulations			

STANDARDS FOR HW STORAGE, TREATMENT, AND DISPOSAL FACILITIES - [See 40 CFR §271.12]

The State needs the authority to regulate all of the owners and operators of hazardous waste management facilities whom EPA regulates.

Authority to promulgate regulations on: 1. I.D. numbers			
2. Recordkeeping			
3. Reporting			
4. Monitoring			
5. Inspecting			
6. Compliance with manifest system			
7. Operating methods			
8. Location, design, construction			
9. Contingency plans			
10. Training			
11. Ownership			
12. Closure and Post-Closure activities			
13. Continuity of operation			
14. Financial responsibility			
15. General conditions (see 40 CFR §§270.30			

PERMITS FOR HW STORAGE, TREATMENT AND DISPOSAL FACILITIES - [See 40 CFR §271.15 and 271.13]

1. Require Permits for owners and operators of all TSD facilities			
2. Impose construction ban			

STATUTORY ELEMENT	STATE CITE	COVERAGE YES/NO?	COMMENT
3. Prohibit operation of facilities without permits (State may have an analogue to interim status)			
4. Require permit application information			
5. Require permits to contain all technical and administrative standards			
6. Provide for permit modifications and termination (revocation)			
7. Allow public disclosure of name and address of permit applicants and permittees			

PUBLIC PARTICIPATION

Authority to provide: 1. Draft permit, fact sheet, etc.			
2. Notice of all draft permits by radio broadcasts and notices in newspapers etc.			
3. 45-day public comment period on all draft permits			
4. Informal hearing with written notice of opposition			
5. Consideration of and response to public comments			

INSPECTIONS

1. Right to enter, inspect and obtain samples (at all regulated premises and where records are kept)			

ENFORCEMENT - [See 40 CFR §271.16]

Authority to: 1. Immediately restrain unauthorized activity			
2. Sue to enjoin any threatened or continuing program violation without prior revocation of permit			

STATUTORY ELEMENT	STATE CITE	COVERAGE YES/NO?	COMMENT
3. Obtain civil penalties for any violation (maximum no less than $10K per day)			
4. Obtain criminal penalties for specified violations (maximum no less than $10K per day and imprisonment with maximum no less than six months); burden of proof no greater than under Federal law			
5. Allow intervention (see 40 CFR §271.16(d)			

MISCELLANEOUS

1. Authority to share all information with EPA			
2. Variance and waiver provisions*			
3. Importation ban*			
4. Exemptions*			
5. Siting*			

* May create problems for a State seeking authorization.

CHAPTER 2.8

CHECKLIST FOR COMPLETENESS OF SUBMISSION

Introduction

EPA specifies the elements of a State program submittal in §271.5. Other Chapters in this Manual explain the purpose and content of the individual elements of the submittal.

The Checklist in this Chapter is intended to help the State and EPA verify that all required aspects of the State program are addressed in the application. The checklist is helpful in determining the completeness of any program submission; however it does not imply a judgment of the quality or adequacy of the items submitted.

Content

The Checklist for Completeness of Submission identifies the required document, letter, form, memorandum, statute, etc. in the first column. The second column identifies the Chapter in this manual which describes the contents of the item listed in column 1. The third column cites the federal regulation, by section and subsection, which requires submission of the item in column 1.

Checklist for Completeness of Submission

DOCUMENT	MANUAL CHAPTER	40 CFR CITE
I. Governor's Letter Requesting Authorization	2.1	271.5 (a)(1)
(A) Signature		
II. Complete Program Description	2.2	271.6
(A) Narrative, Scope, Structure, and Processes		271.6(a)
(B) Identification of Lead Agency		271.6(b)
(C) Description of State Agency		271.6(b)
(D) Description of Staff		271.6(b)(1)
(E) Budget		271.6(b)(2)
(F) Sources of Funds and Restrictions		271.6(b)(3)
(G) Description of Permitting and Administrative or Judicial Review Procedures		271.6(c)
(H) Description of Compliance and Enforcement Program		271.6(e)
(I) Description of Manifest Tracking System		271.6(f)
(J) Estimated Number of Generators, Transporters On-Site and Off-Site Treatment Storage and Disposal Facilities and Their Permit Status		271.6(g)
(K) Quantities of Hazardous Waste Generated In State, Transported In and Out of State, and Treated or Disposed of Within the State On- and Off-Site (if available)		271.6(h)
(L) Forms: 1. Permit Application Form(s) 2. Final Permit Form(s) 3. Report Form(s) 4. Manifest Form(s)		271.6(d)
III. Attorney General's Statement	2.3	271.7
(A) Identification and Listing		271.9
(B) Standards for Generators		271.10
(C) Standards for Transporters		271.11
(D) Standards for Facilities		271.12
(E) Requirements for Permits		271.13, 271.14
(F) Inspections		271.15
(G) Enforcement Remedies		271.16(a),(b) & (c)
(H) Public Participation in the State Enforcement Process		271.16(d)
(I) Authority to Share Information With EPA		271.17
(J) Signature		271.7(a)

DOCUMENT	MANUAL CHAPTER	40 CFR CITE
IV. Memorandum of Agreement (MOA)	2.4	271.8
(A) Provisions for transfer of information		271.8(b)(6)
(B) Frequency and Content of Reports		271.8(b)(2)
(C) Conditions for Record Reviews		271.8(b)(2)
(D) Provisions for Compliance Monitoring and Enforcing		271.8(b)(3)
(E) Provisions for Joint Permit Review		271.8(b)(8)
(F) Provisions for Modification of MOA		271.8(b)(11) & (c)
(G) Provisions for Inspection of Hazardous Waste Facilities		271.8(b)(4)
(H) Provisions for Inspection of Generators and Transporters		271.8(b)(4)
(I) Provisions for permit review		271.8(b)(7) & (b)(9)
(J) No restrictions clause		271.8(a) & (b)(5)
(K) Confidentiality Provisions		271.17)
(L) Signatures		271.8 & 270.2
V. Legislation (statutes)		
(A) Hazardous Waste Management	2.3, 2.6, 2.7	271.5(a)(5)
(B) Administrative Procedures		
(C) Other		
VI. Regulations		
(A) Hazardous Waste Management	2.3, 2.7	271.5(a)(5)
(B) Other		
VII. Showing of Public Participation	2.5	271.20(c)
(A) Written Comments		
(B) Transcript, recording or summary of hearings		
(C) Responsiveness Summary		
VIII. Three Copies of Complete Submission		271.5(a)
IX. State Regulatory Program Checklist	2.3, Appendix A	

APPENDIX A

STATE REGULATORY PROGRAM CHECKLIST

The checklists in this Appendix are intended to assist the Attorney General and/or the State program office in demonstrating that the State qualifies for final authorization. The instructions for completing these checklists can be found on page 2.3-4. The organization of the checklists coincides with the Model Attorney General's Statement as listed below:

Checklist I A - Identification and Listing
Checklist I B - Waste Lists
Checklist I C - Characteristics
Checklist II - Generator Requirements
Checklist III - Transporter Requirements
Checklist IV A - Facility Requirements
Checklist IV B - Facility Interim Status Requirements
Checklist V - Permitting Requirements

Checklist V

Checklist V identifies the 40 CFR Part 270 and 124 permitting requirements for final authorization. State programs must have legal authority to implement each non-optional item on the checklist (see 40 CFR 271.14). Legal authority means that the State analogue to the Federal requirement must be reflected in a State law, regulation, published opinion of the Attorney General or other document with the force of law.

1. Procedural Requirements

State programs also must be administered in accordance with each item on the checklist. In most instances this means that the State requirement must be reflected explicitly in a State regulation. (Some State statutes may contain such explicit requirements, which would also be acceptable.) However, for some of the primarily procedural requirements on the checklist (identified by asterisks), the State may be able to commit in the MOA, rather than provide an explicit regulation, to satisfy the requirement of §271.14. Such an agreement will be acceptable where the State agency is willing to bind itself to a particular procedure (e.g., providing a 45-day, rather than 30-day, public comment period) in the MOA and where the State Attorney General certifies that (1) the State has the authority to enter into the agreement, (2) the State has the authority to carry out the agreement, and (3) no applicable State statute (including the State administrative procedure act) requires that the procedure be promulgated as a rule in order to be binding. For further discussion, see page 1.3-7.

2. Optional Requirements

Some elements in Checklist V are labeled "Optional." The State does not need to provide for a counterpart to these requirements; however, where the State does have a similar requirement, the requirement must be at least as stringent as the Federal one.

3. Contents of Permit Applications

The State does not need to use a two part permit application process. Also, State regulations need not list all items in 270.13-29; however, the State must require that permit applications from new and existing facilities contain adequate information for the State to establish and determine compliance with all permitting requirements (the State analogues to 40 CFR Parts 270 and 264).

CHECKLIST I A

IDENTIFICATION AND LISTING

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
SUBPART A - GENERAL			
DEFINITION OF SOLID WASTE			
solid waste	261.2(a)		
waste material	261.2(b)		
discarded	261.2(c)		
disposed of	261.2(d)		
manufacturing or mining byproduct	261.2(e)		
DEFINITION OF HAZARDOUS WASTE			
not excluded by 261.4(b)	261.3(a)(1)		
has characteristic of Subpart C	261.3(a)(2)(i)		
listed in Subpart D	261.3(a)(2)(ii)		
mixture	261.3(a)(2)(iii)		
exceptions	261.3(a)(2)(iv)		
meets listing description	261.3(b)(1)		
hazardous waste added	261.3(b)(2)		
exhibits characteristics	261.3(b)(3)		
remains hazardous waste	261.3(c)(1)		
generated from treatment	261.3(c)(2)		
waste not exhibiting characteristics	261.3(d)(1)		
excluded under 260.20 and 260.22	261.3(d)(2)		
EXCLUSIONS			
not solid waste	261.4(a)		
domestic sewage	261.4(a)(1)(i)		

CHECKLIST I A (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
mixture	(ii) 261.4(a)(1)		
industrial wastewater	261.4(a)(2)		
irrigation return	261.4(a)(3)		
nuclear material	261.4(a)(4)		
in-situ mining	261.4(a)(5)		
solid waste which are not hazardous wastes	261.4(b)		
household waste	261.4(b)(1)		
returned to soil as fertilizers	261.4(b)(2)		
mining overburden	261.4(b)(3)		
ash waste	261.4(b)(4)		
drilling fluids	261.4(b)(5)		
	261.4(b)(6)		
ore processing	261.4(b)(7)		
cement kiln	261.4(b)(8)		
discarded wood	261.4(b)(9)		
exempt hazardous waste	261.4(c)		
samples	261.4(d)		
SPECIAL REQUIREMENTS FOR HAZARDOUS WASTE GENERATED BY SMALL QUANTITY GENERATORS			
definition	261.5(a)		
exceptions	261.5(b)		
recycled waste	261.5(c)		
quantity exclusions	261.5(d)		
acutely hazardous	261.5(e)		
accumulation on-site	261.5(f)		

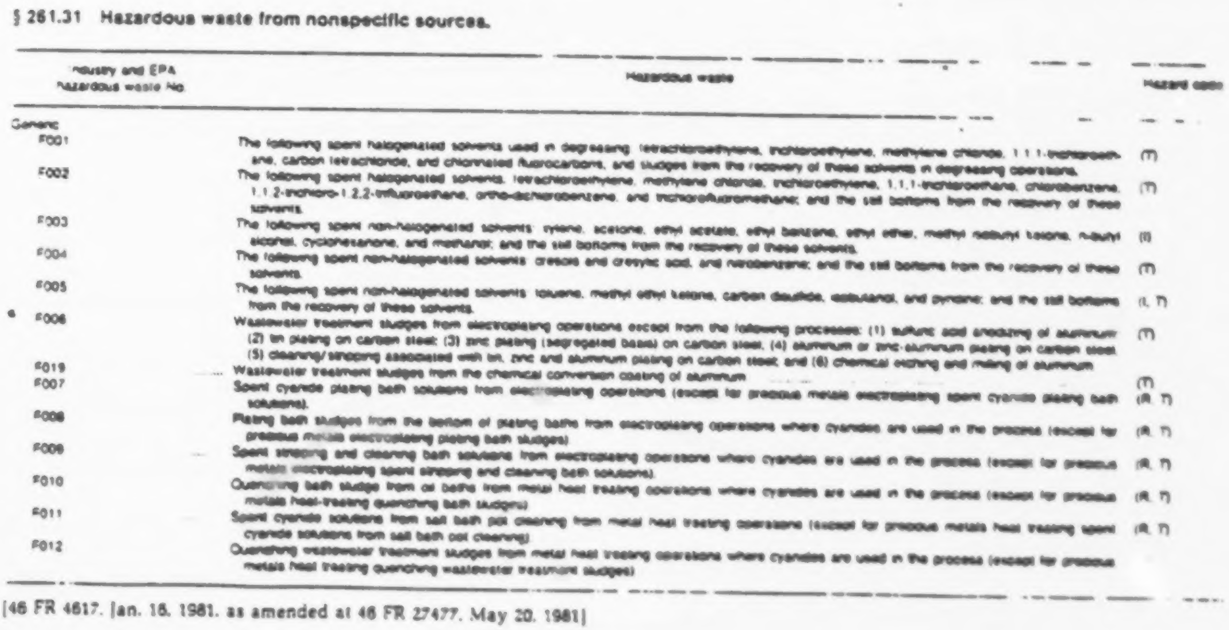
CHECKLIST I A (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
generator requirements in order to have waste excluded	261.5(g)		
comply with 262.11	261.5(g)(1)		
storage	261.5(g)(2)		
treatment or disposal	261.5(g)(3)		
mixing with non-hazardous waste	261.5(h)		
mixing with a solid waste	261.5(i)		
SPECIAL REQUIREMENTS FOR HAZARDOUS WASTE WHICH IS USED, RE-USED, RECYCLED OR RECLAIMED			
exemption from regulations	261.6(a)		
beneficially used	261.6(a)(1)		
accumulated for use	261.6(a)(2)		
specific materials	261.6(a)(3)		
transportation and storage requirements for waste listed in Subpart D	261.6(b)		
RESIDUES OF HAZARDOUS WASTE IN EMPTY CONTAINERS			
waste remaining in container	261.7(a)(1)		
container not empty	261.7(a)(2)		
definition of empty	261.7(b)(1)		
definition of empty compressed gas	261.7(b)(2)		
waste under 261.33(c)	261.7(b)(3)		

CHECKLIST I B

WASTE LISTS

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
SUBPART D - LIST OF HAZARDOUS WASTES			
GENERAL			
exclusions	261.30(a)		
hazard codes	261.30(b)		
hazardous waste number	261.30(c)		
HAZARDOUS WASTES FROM NONSPECIFIC SOURCES			
list of "F" wastes	261.31		



§ 261.31 Hazardous waste from nonspecific sources.

Industry and EPA hazardous waste No.	Hazardous waste	Hazard code
Generic:		
F001	The following spent halogenated solvents used in degreasing: tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, and chlorinated fluorocarbons; and sludges from the recovery of these solvents in degreasing operations.	(T)
F002	The following spent halogenated solvents: tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, and trichlorofluoromethane; and the still bottoms from the recovery of these solvents.	(T)
F003	The following spent non-halogenated solvents: xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; and the still bottoms from the recovery of these solvents.	(I)
F004	The following spent non-halogenated solvents: cresols and cresylic acid, and nitrobenzene; and the still bottoms from the recovery of these solvents.	(T)
F005	The following spent non-halogenated solvents: toluene, methyl ethyl ketone, carbon disulfide, isobutanol, and pyridine; and the still bottoms from the recovery of these solvents.	(I, T)
F006	Wastewater treatment sludges from electroplating operations except from the following processes: (1) sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.	(T)
F019	Wastewater treatment sludges from the chemical conversion coating of aluminum	(T)
F007	Spent cyanide plating bath solutions from electroplating operations (except for precious metals electroplating spent cyanide plating bath solutions).	(R, T)
F008	Plating bath sludges from the bottom of plating baths from electroplating operations where cyanides are used in the process (except for precious metals electroplating plating bath sludges).	(R, T)
F009	Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process (except for precious metals electroplating spent stripping and cleaning bath solutions).	(R, T)
F010	Quenching bath sludge from oil baths from metal heat treating operations where cyanides are used in the process (except for precious metals heat-treating quenching bath sludges).	(R, T)
F011	Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations (except for precious metals heat treating spent cyanide solutions from salt bath pot cleaning).	(R, T)
F012	Quenching wastewater treatment sludges from metal heat treating operations where cyanides are used in the process (except for precious metals heat treating quenching wastewater treatment sludges).	

[46 FR 4617, Jan. 16, 1981, as amended at 46 FR 27477, May 20, 1981]

CHECKLIST I B (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
HAZARDOUS WASTES FROM SPECIFIC SOURCES			
list of "K" wastes	261.32		

§ 261.32 Hazardous waste from specific sources.

Industry and EPA hazardous waste No.	Hazardous waste	Hazard code
Wood Preservation:		
K001	Bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol	(T)
Inorganic Pigments:		
K002	Wastewater treatment sludge from the production of chrome yellow and orange pigments	(T)
K003	Wastewater treatment sludge from the production of molybdate orange pigments	(T)
K004	Wastewater treatment sludge from the production of zinc yellow pigments	(T)
K005	Wastewater treatment sludge from the production of chrome green pigments	(T)
K006	Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated)	(T)
K007	Wastewater treatment sludge from the production of iron blue pigments	(T)
K008	Oven residue from the production of chrome oxide green pigments	(T)
Organic Chemicals:		
K009	Distillation bottoms from the production of acetaldehyde from ethylene	(T)
K010	Distillation side cuts from the production of acetaldehyde from ethylene	(T)
K011	Bottom stream from the wastewater stripper in the production of acrylonitrile	(R, T)
K013	Bottom stream from the acetonitrile column in the production of acrylonitrile	(R, T)
K014	Bottoms from the acetonitrile purification column in the production of acrylonitrile	(T)
K015	Still bottoms from the distillation of benzyl chloride	(T)
K016	Heavy ends or distillation residues from the production of carbon tetrachloride	(T)
K017	Heavy ends (still bottoms) from the purification column in the production of epichlorohydrin	(T)
K018	Heavy ends from the fractionation column in ethyl chloride production	(T)
K019	Heavy ends from the distillation of ethylene dichloride in ethylene dichloride production	(T)
K020	Heavy ends from the distillation of vinyl chloride in vinyl chloride monomer production	(T)
K021	Aqueous spent antimony catalyst waste from fluoromethanes production	(T)
K022	Distillation bottom tars from the production of phenol/acetone from cumene	(T)
K023	Distillation light ends from the production of phthalic anhydride from naphthalene	(T)
K024	Distillation bottoms from the production of phthalic anhydride from naphthalene	(T)
K093	Distillation light ends from the production of phthalic anhydride from ortho-xylene	(T)
K094	Distillation bottoms from the production of phthalic anhydride from ortho-xylene	(T)
K025	Distillation bottoms from the production of nitrobenzene by the nitration of benzene	(T)
K026	Stripping still tails from the production of methy ethyl pyridines	(T)
K027	Centrifuge and distillation residues from toluene diisocyanate production	(R, T)
K028	Spent catalyst from the hydrochlorinator reactor in the production of 1,1,1-trichloroethane	(T)
K029	Waste from the product steam stripper in the production of 1,1,1-trichloroethane	(T)
K095	Distillation bottoms from the production of 1,1,1-trichloroethane	(T)
K096	Heavy ends from the heavy ends column from the production of 1,1,1-trichloroethane	(T)
K030	Column bottoms or heavy ends from the combined production of trichloroethylene and perchloroethylene	(T)
K083	Distillation bottoms from aniline production	(T)
K103	Process residues from aniline extraction from the production of aniline	(T)
K104	Combined wastewater streams generated from nitrobenzene/aniline production	(T)
K085	Distillation or fractionation column bottoms from the production of chlorobenzenes	(T)
K105	Separated aqueous stream from the reactor product washing step in the production of chlorobenzenes	(T)
Inorganic Chemicals		
K071	Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used	(T)
K073	Chlorinated hydrocarbon waste from the purification step of the diaphragm cell process using graphite anodes in chlorine production	(T)
K106	Wastewater treatment sludge from the mercury cell process in chlorine production	(T)
Pesticides		
K031	By-product salts generated in the production of MSMA and cacodylic acid	(T)
K032	Wastewater treatment sludge from the production of chlordane	(T)
K033	Wastewater and scrub water from the chlorination of cyclopentadiene in the production of chlordane	(T)
K034	Filter solids from the filtration of hexachlorocyclopentadiene in the production of chlordane	(T)
K097	Vacuum stripper discharge from the chlordane chlorinator in the production of chlordane	(T)
K035	Wastewater treatment sludges generated in the production of creosote	(T)
K036	Still bottoms from toluene reclamation distillation in the production of disulfoton	(T)
K037	Wastewater treatment sludges from the production of disulfoton	(T)
K038	Wastewater from the washing and stripping of phorate production	(T)
K039	Filter cake from the filtration of diethylphosphorodithioic acid in the production of phorate	(T)
K040	Wastewater treatment sludge from the production of phorate	(T)
K041	Wastewater treatment sludge from the production of toxaphene	(T)
K098	Untreated process wastewater from the production of toxaphene	(T)
K042	Heavy ends or distillation residues from the distillation of tetrachlorobenzene in the production of 2,4,5-T	(T)
K043	2,6-Dichlorophenol waste from the production of 2,4-D	(T)
K099	Untreated wastewater from the production of 2,4-D	(T)

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CHECKLIST I 8 (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
HAZARDOUS WASTES FROM SPECIFIC SOURCES			
list of "K" wastes	261.32 (continued)		

Industry and EPA hazardous waste No.	Hazardous waste	Hazard code
Explosives		
K044	Wastewater treatment sludges from the manufacturing and processing of explosives	(R)
K045	Spent carbon from the treatment of wastewater containing explosives	(R)
K046	Wastewater treatment sludges from the manufacturing, formulation and loading of lead-based initiating compounds	(T)
K047	Pink/red water from TNT operations	(R)
Petroleum Refining		
K048	Dissolved air flotation (DAF) float from the petroleum refining industry	(T)
K049	Slop oil emulsion solids from the petroleum refining industry	(T)
K050	Heat exchanger bundle cleaning sludge from the petroleum refining industry	(T)
K051	API separator sludge from the petroleum refining industry	(T)
K052	Tank bottoms (leaded) from the petroleum refining industry	(T)
Iron and Steel		
K061	Emission control dust/sludg [illegible] the primary production of steel in electric furnaces	(T)
K062	Spent pickle liquor from st [illegible] operations	(C, T)
Secondary Lead		
K069	Emission control dust/slud [illegible] lead smelting	(T)
K100	Waste leaching solution fro [illegible] emission control dust/sludge from secondary lead smelting	(T)
Veterinary Pharmaceuticals		
K084	Wastewater treatment sludges [illegible] the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds	(T)
K101	Distillation tar residues from the [illegible] aniline-based compounds in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds	(T)
K102	Residue from the use of activated carbon for decolorization in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds	(T)
Ink Formulation		
K086	Solvent washes and sludges, caustic washes and sludges, or water washes and sludges from cleaning tubs and equipment used in the formulation of ink from pigments, driers, soaps, and stabilizers containing chromium and lead	(T)
Coking		
K060	Ammonia still lime sludge from coking operations	(T)
K087	Decanter tank tar sludge from coking operations	(T)

[46 FR 4618, Jan. 16, 1981, as amended at 46 FR 27476–27477, May 20, 1981]

CHECKLIST I B (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
DISCARDED COMMERCIAL CHEMICAL PRODUCTS, OFF-SPECIFICATION SPECIES, CONTAINER RESIDUES, AND SPILL RESIDUES THEREOF			
are hazardous when discarded	261.33		
chemical product or intermediate	261.33(a)		
off-specification product	261.33(b)		
empty container residue	261.33(c)		
spill cleanup debris	261.33(d)		
acute hazardous wastes	261.33(e)		

Hazardous waste No.	Substance
P023	Acetaldehyde, chloro-
P002	Acetamide, N-(aminothioxomethyl)-
P057	Acetamide, 2-fluoro-
P058	Acetic acid, fluoro-, sodium salt
P066	Acetimidic acid, N-[(methylcarbamoyl)oxy]thio-, methyl ester
P001	3-(alpha-acetonylbenzyl)-4-hydroxycoumarin and salts
P002	1-Acetyl-2-thiourea
P003	Acrolein
P070	Aldicarb
P004	Aldrin
P005	Allyl alcohol
P006	Aluminum phosphide
P007	5-(Aminomethyl)-3-isoxazolol
P008	4-Aminopyridine
P009	Ammonium picrate (R)
P119	Ammonium vanadate.
P010	Arsenic acid
P012	Arsenic (III) oxide
P011	Arsenic (V) oxide
P011	Arsenic pentoxide
P012	Arsenic trioxide
P038	Arsine, diethyl-
P054	Aziridine
P013	Barium cyanide
P024	Benzenamine, 4-chloro-
P077	Benzenamine, 4-nitro-
P028	Benzene, (chloromethyl)-
P042	1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino)ethyl]-
P014	Benzenethiol
P028	Benzyl chloride
P015	Beryllium dust
P016	Bis(chloromethyl) ether
P017	Bromoacetone
P018	Brucine
P021	Calcium cyanide
P123	Camphene, octachloro-
P103	Carbamimidoselenoic acid
P022	Carbon bisulfide
P022	Carbon disulfide
P095	Carbonyl chloride
P033	Chlorine cyanide
P023	Chloroacetaldehyde
P024	p-Chloroaniline
P026	1-(o-Chlorophenyl)thiourea
P027	3-Chloropropionitrile
P029	Copper cyanides
P030	Cyanides (soluble cyanide salts), not elsewhere specified
031	Cyanogen
33	Cyanogen chloride

Hazardous waste No.	Substance
P036	Dichlorophenylarsine
P037	Dieldrin
P038	Diethylarsine
P039	O,O-Diethyl S-[2-(ethylthio)ethyl] phosphorodithioate
P041	Diethyl-p-nitrophenyl phosphate
P040	O,O-Diethyl O-pyrazinyl phosphorothioate
P043	Diisopropyl fluorophosphate
P044	Dimethoate
P045	3,3-Dimethyl-1-(methylthio)-2-butanone, O-[(methylamino)carbonyl] oxime
P071	O,O-Dimethyl O-p-nitrophenyl phosphorothioate
P082	Dimethylnitrosamine
P046	alpha, alpha-Dimethylphenethylamine
P047	4,6-Dinitro-o-cresol and salts
P034	4,6-Dinitro-o-cyclohexylphenol
P048	2,4-Dinitrophenol
P020	Dinoseb
P085	Diphosphoramide, octamethyl-
P039	Disulfoton
P049	2,4-Dithiobiuret
P109	Dithiopyrophosphoric acid, tetraethyl ester
P050	Endosulfan
P088	Endothall
P051	Endrin
P042	Epinephrine
P046	Ethanamine, 1,1-dimethyl-2-phenyl-
P084	Ethenamine, N-methyl-N-nitroso-
P101	Ethyl cyanide
P054	Ethyleneimine
P097	Famphur
P056	Fluorine
P057	Fluoroacetamide
P058	Fluoroacetic acid, sodium salt
P065	Fulminic acid, mercury(II) salt (R,T)
P059	Heptachlor
P051	1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo,endo-1,4:5,8-dimethanonaphthalene
P037	1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo,exo-1,4:5,8-demethanonaphthalene
P060	1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo, endo-dimethanonaphthalene
P004	1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo,exo-dimethanonaphthalene
P060	Hexachlorohexahydro-exo,exo-dimethanonaphthalene
P062	Hexaethyl tetraphosphate

CHECKLIST I B (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
acute hazardous wastes	261.33(e)	(continued)	

Hazardous waste No.	Substance
P116	Hydrazinecarbothioamide
P068	Hydrazine, methyl-
P063	Hydrocyanic acid
P063	Hydrogen cyanide
P096	Hydrogen phosphide
P064	Isocyanic acid, methyl ester
P007	3(2H)-Isoxazolone, 5-(aminomethyl)-
P092	Mercury, (acetato-O)phenyl-
P065	Mercury fulminate (R,T)
P016	Methane, oxybis(chloro-
P112	Methane, tetranitro- (R)
P118	Methanethiol, trichloro-
P059	4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-
P066	Methomyl
P067	2-Methylaziridine
P068	Methyl hydrazine
P064	Methyl isocyanate
P069	2-Methyllactonitrile
P071	Methyl parathion
P072	alpha-Naphthylthiourea
P073	Nickel carbonyl
P074	Nickel cyanide
P074	Nickel(II) cyanide
P073	Nickel tetracarbonyl
P075	Nicotine and salts
P076	Nitric oxide
P077	p-Nitroaniline
P078	Nitrogen dioxide
P076	Nitrogen(II) oxide
P078	Nitrogen(IV) oxide
P081	Nitroglycerine (R)
P082	N-Nitrosodimethylamine
P084	N-Nitrosomethylvinylamine
P050	5-Norbornene-2,3-dimethanol, 1,4,5,6,7,7-hexachloro, cyclic sulfite
P085	Octamethylpyrophosphoramide
P087	Osmium oxide
P087	Osmium tetroxide
P088	7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid
P089	Parathion
P034	Phenol, 2-cyclohexyl-4,6-dinitro-
P048	Phenol, 2,4-dinitro-
P047	Phenol, 2,4-dinitro-6-methyl-
P020	Phenol, 2,4-dinitro-6-(1-methylpropyl)-
P009	Phenol, 2,4,6-trinitro-, ammonium salt (R)
P036	Phenyl dichloroarsine
P092	Phenylmercuric acetate
P093	N-Phenylthiourea
P094	Phorate
P095	Phosgene
P096	Phosphine
P041	Phosphoric acid, diethyl p-nitrophenyl ester
P044	Phosphorodithioic acid, O,O-dimethyl S-[2-(methylamino)-2-oxoethyl]ester
P043	Phosphorofluoric acid, bis(1-methylethyl)-ester

Hazardous waste No.	Substance
P094	Phosphorothioic acid, O,O-diethyl S-(ethylthio)methyl ester
P089	Phosphorothioic acid, O,O-diethyl O-(p-nitrophenyl) ester
P040	Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester
P097	Phosphorothioic acid, O,O-dimethyl O-[p-((dimethylamino)-sulfonyl)phenyl]ester
P110	Plumbane, tetraethyl-
P098	Potassium cyanide
P099	Potassium silver cyanide
P070	Propanal, 2-methyl-2-(methylthio)-, O-[(methylamino)carbonyl]oxime
P101	Propanenitrile
P027	Propanenitrile, 3-chloro-
P069	Propanenitrile, 2-hydroxy-2-methyl-
P081	1,2,3-Propanetriol, trinitrate- (R)
P017	2-Propanone, 1-bromo-
P102	Propargyl alcohol
P003	2-Propenal
P005	2-Propen-1-ol
P067	1,2-Propylenimine
P102	2-Propyn-1-ol
P008	4-Pyridinamine
P075	Pyridine, (S)-3-(1-methyl-2-pyrrolidinyl)-, and salts
P111	Pyrophosphoric acid, tetraethyl ester
P103	Selenourea
P104	Silver cyanide
P105	Sodium azide
P106	Sodium cyanide
P107	Strontium sulfide
P108	Strychnidin-10-one, and salts
P018	Strychnidin-10-one, 2,3-dimethoxy-
P108	Strychnine and salts
P115	Sulfuric acid, thallium(I) salt
P109	Tetraethyldithiopyrophosphate
P110	Tetraethyl lead
P111	Tetraethylpyrophosphate
P112	Tetranitromethane (R)
P062	Tetraphosphoric acid, hexaethyl ester
P113	Thallic oxide
P113	Thallium(III) oxide
P114	Thallium(I) selenite
P115	Thallium(I) sulfate
P045	Thiofanox
P049	Thiomidodicarbonic diamide
P014	Thiophenol
P116	Thiosemicarbazide
P026	Thiourea, (2-chlorophenyl)-
P072	Thiourea, 1-naphthalenyl-
P093	Thiourea, phenyl-
P123	Toxaphene
P118	Trichloromethanethiol
P119	Vanadic acid, ammonium salt
P120	Vanadium pentoxide
P120	Vanadium(V) oxide
P001	Warfarin
P121	Zinc cyanide
P122	Zinc phosphide (R,T)

CHECKLIST I B (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
toxic wastes	261.33(f)		

Hazardous Waste No.	Substance
U001	Acetaldehyde (I)
U034	Acetaldehyde, trichloro-
U187	Acetamide, N-(4-ethoxyphenyl)-
U005	Acetamide, N-9H-fluoren-2-yl-
U112	Acetic acid, ethyl ester (I)
U144	Acetic acid, lead salt
U214	Acetic acid, thallium(I) salt
U002	Acetone (I)
U003	Acetonitrile (I,T)
U004	Acetophenone
U005	2-Acetylaminofluorene
U006	Acetyl chloride (C,R,T)
U007	Acrylamide
U008	Acrylic acid (I)
U009	Acrylonitrile
U150	Alanine, 3-[p-bis(2-chloroethyl)amino] phenyl-, L-
U011	Amitrole
U012	Aniline (I,T)
U014	Auramine
U015	Azaserine
U010	Azirino(2',3':3,4)pyrrolo(1,2-a)indole-4,7-dione, 6-amino-8-[((aminocarbonyl)oxy)methyl]-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl-
U157	Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-
U016	Benz[c]acridine
U016	3,4-Benzacridine
U017	Benzal chloride
U018	Benz[a]anthracene
U018	1,2-Benzanthracene
U094	1,2-Benzanthracene, 7,12-dimethyl-
U012	Benzenamine (I,T)
U014	Benzenamine, 4,4'-carbonimidoylbis(N,N-dimethyl-

Hazardous Waste No	Substance
U049	Benzenamine, 4-chloro-2-methyl-
U093	Benzenamine, N,N'-dimethyl-4-phenylazo-
U158	Benzenamine, 4,4'-methylenebis(2-chloro-
U222	Benzenamine, 2-methyl-, hydrochloride
U181	Benzenamine, 2-methyl-5-nitro
U019	Benzene (I,T)
U038	Benzeneacetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy, ethyl ester
U030	Benzene, 1-bromo-4-phenoxy-
U037	Benzene, chloro-
U190	1,2-Benzenedicarboxylic acid anhydride
U028	1,2-Benzenedicarboxylic acid, [bis(2-ethylhexyl)] ester
U069	1,2-Benzenedicarboxylic acid, dibutyl ester
U088	1,2-Benzenedicarboxylic acid, diethyl ester
U102	1,2-Benzenedicarboxylic acid, dimethyl ester
U107	1,2-Benzenedicarboxylic acid, di-n-octyl ester
U070	Benzene, 1,2-dichloro-
U071	Benzene, 1,3-dichloro-
U072	Benzene, 1,4-dichloro-
U017	Benzene, (dichloromethyl)-
U223	Benzene, 1,3-diisocyanatomethyl- (R,T)
U239	Benzene, dimethyl-(I,T)
U201	1,3-Benzenediol
U127	Benzene, hexachloro-
U056	Benzene, hexahydro- (I)
U188	Benzene, hydroxy-
U220	Benzene, methyl-
U105	Benzene, 1-methyl-1-2,4-dinitro-
U106	Benzene, 1-methyl-2,6-dinitro-
U203	Benzene, 1,2-methylenedioxy-4-allyl-
U141	Benzene, 1,2-methylenedioxy-4-propenyl-
U090	Benzene, 1,2-methylenedioxy-4-propyl-
U055	Benzene, (1-methylethyl)- (I)
U169	Benzene, nitro- (I,T)
U183	Benzene, pentachloro-
U185	Benzene, pentachloro-nitro-
U020	Benzenesulfonic acid chloride (C,R)
U020	Benzenesulfonyl chloride (C,R)
U207	Benzene, 1,2,4,5-tetrachloro-
U023	Benzene, (trichloromethyl)-(C,R,T)
U234	Benzene, 1,3,5-trinitro- (R,T)
U021	Benzidine
U202	1,2-Benzisothiazolin-3-one, 1,1-dioxide
U120	Benzo[j,k]fluorene
U022	Benzo[a]pyrene
U022	3,4-Benzopyrene
U197	p-Benzoquinone
U023	Benzotrichloride (C,R,T)
U050	1,2-Benzphenanthrene
U085	2,2'-Bioxirane (I,T)
U021	(1,1'-Biphenyl)-4,4'-diamine
U073	(1,1'-Biphenyl)-4,4'-diamine, 3,3'-dichloro-
U091	(1,1'-Biphenyl)-4,4'-diamine, 3,3'-dimethoxy-
U095	(1,1'-Biphenyl)-4,4'-diamine, 3,3'-dimethyl-
U024	Bis(2-chloroethoxy) methane
U027	Bis(2-chloroisopropyl) ether
U244	Bis(dimethylthiocarbamoyl) disulfide
U028	Bis(2-ethylhexyl) phthalate
U246	Bromine cyanide
U225	Bromoform
U030	4-Bromophenyl phenyl ether
U128	1,3-Butadiene, 1,1,2,3,4,4-hexachloro-
U172	1-Butanamine, N-butyl-N-nitroso-
U035	Butanoic acid, 4-[Bis(2-chloroethyl)amino] benzene-
U031	1-Butanol (I)
U159	2-Butanone (I,T)
U160	2-Butanone peroxide (R,T)
U053	2-Butenal

Hazardous Waste No	Substance
U074	2-Butene, 1,4-dichloro- (I,T)
U031	n-Butyl alcohol (I)
U136	Cacodylic acid
U032	Calcium chromate
U238	Carbamic acid, ethyl ester
U178	Carbamic acid, methylnitroso-, ethyl ester
U176	Carbamide, N-ethyl-N-nitroso-
U177	Carbamide, N-methyl-N-nitroso-
U219	Carbamide, thio-
U097	Carbamoyl chloride, dimethyl-
U215	Carbonic acid, dithallium(I) salt
U156	Carbonochloridic acid, methyl ester (I,T)
U033	Carbon oxyfluoride (R,T)
U211	Carbon tetrachloride
U033	Carbonyl fluoride (R,T)
U034	Chloral
U035	Chlorambucil
U036	Chlordane, technical
U026	Chlornaphazine
U037	Chlorobenzene
U039	4-Chloro-m-cresol
U041	1-Chloro-2,3-epoxypropane
U042	2-Chloroethyl vinyl ether
U044	Chloroform
U046	Chloromethyl methyl ether
U047	beta-Chloronaphthalene
U048	o-Chlorophenol
U049	4-Chloro-o-toluidine, hydrochloride
U032	Chromic acid, calcium salt
U050	Chrysene
U051	Creosote
U052	Cresols
U052	Cresylic acid
U053	Crotonaldehyde
U055	Cumene (I)
U246	Cyanogen bromide
U197	1,4-Cyclohexadienedione
U056	Cyclohexane (I)
U057	Cyclohexanone (I)
U130	1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-
U058	Cyclophosphamide
U240	2,4-D, salts and esters
U059	Daunomycin
U060	DDD
U061	DDT
U142	Decachlorooctahydro-1,3,4-metheno-2H-cyclobuta[c,d]-pentalen-2-one
U062	Diallate
U133	Diamine (R,T)
U221	Diaminotoluene
U063	Dibenz[a,h]anthracene
U063	1,2:5,6-Dibenzanthracene
U064	1,2:7,8-Dibenzopyrene
U064	Dibenz[a,i]pyrene
U066	1,2-Dibromo-3-chloropropane
U069	Dibutyl phthalate
U062	S-(2,3-Dichloroallyl) diisopropylthiocarbamate
U070	o-Dichlorobenzene
U071	m-Dichlorobenzene
U072	p-Dichlorobenzene
U073	3,3'-Dichlorobenzidine
U074	1,4-Dichloro-2-butene (I,T)
U075	Dichlorodifluoromethane
U192	3,5-Dichloro-N-(1,1-dimethyl-2-propynyl) benzamide
U060	Dichloro diphenyl dichloroethane
U061	Dichloro diphenyl trichloroethane
U078	1,1-Dichloroethylene
U079	1,2-Dichloroethylene
U025	Dichloroethyl ether
U081	2,4-Dichlorophenol

CHECKLIST I B (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
toxic wastes	261.33(f)	(continued)	

Hazardous Waste No.	Substance
U082	2,6-Dichlorophenol
U240	2,4-Dichlorophenoxyacetic acid, salts and esters
U083	1,2-Dichloropropane
U084	1,3-Dichloropropene
U085	1,2:3,4-Diepoxybutane (I,T)
U108	1,4-Diethylene dioxide
U086	N,N-Diethylhydrazine
U087	O,O-Diethyl-S-methyl-dithiophosphate
U088	Diethyl phthalate
U089	Diethylstilbesterol
U148	1,2-Dihydro-3,6-pyradizinedione
U090	Dihydrosafrole
U091	3,3'-Dimethoxybenzidine
U092	Dimethylamine (I)
U093	Dimethylaminoazobenzene
U094	7,12-Dimethylbenz[a]anthracene
U095	3,3'-Dimethylbenzidine
U096	alpha,alpha-Dimethylbenzylhydroperoxide (R)
U097	Dimethylcarbamoyl chloride
U098	1,1-Dimethylhydrazine
U099	1,2-Dimethylhydrazine
U101	2,4-Dimethylphenol
U102	Dimethyl phthalate
U103	Dimethyl sulfate
U105	2,4-Dinitrotoluene
U106	2,6-Dinitrotoluene
U107	Di-n-octyl phthalate
U108	1,4-Dioxane
U109	1,2- Diphenylhydrazine
U110	Dipropylamine (I)
U111	Di-N-propylnitrosamine
U001	Ethanal (I)
U174	Ethanamine, N-ethyl-N-nitroso-
U067	Ethane, 1,2-dibromo-
U076	Ethane, 1,1-dichloro-
U077	Ethane, 1,2-dichloro-
U114	1,2-Ethanediylbiscarbamodithioic acid
U131	Ethane, 1,1,1,2,2,2-hexachloro-
U024	Ethane, 1,1'-[methylenebis(oxy)]bis[2-chloro-
U003	Ethanenitrile (I, T)
U117	Ethane,1,1'-oxybis- (I)
U025	Ethane, 1,1'-oxybis[2-chloro-
U184	Ethane, pentachloro-
U208	Ethane, 1,1,1,2-tetrachloro-
U209	Ethane, 1,1,2,2-tetrachloro-
U218	Ethanethioamide
U227	Ethane, 1,1,2-trichloro-
U247	Ethane,1,1,1,-trichloro-2,2-bis(p-methoxyphenyl).
U043	Ethene, chloro-
U042	Ethene, 2-chloroethoxy-
U078	Ethene, 1,1-dichloro-
U079	Ethene, trans-1,2-dichloro-
U210	Ethene, 1,1,2,2-tetrachloro-
U173	Ethanol, 2,2'-(nitrosoimino)bis-
U004	Ethanone, 1-phenyl-
U006	Ethanoyl chloride (C,R,T)
U112	Ethyl acetate (I)
U113	Ethyl acrylate (I)
U238	Ethyl carbamate (urethan)
U038	Ethyl 4,4'-dichlorobenzilate
U114	Ethylenebis(dithiocarbamic acid)
U067	Etylene dibromide
U077	Ethylene dichloride
U115	Ethlene oxide (I,T)
U116	Ethylene thiourea
U117	Ethyl ether (I)
U076	Ethylidene dichloride
U118	Ethylmethacrylate
U119	Ethyl methanesulfonate

Hazardous Waste No	Substance
U139	Ferric dextran
U120	Fluoranthene
U122	Formaldehyde
U123	Formic acid (C,T)
U124	Furan (I)
U125	2-Furancarboxaldehyde (I)
U147	2,5-Furandione
U213	Furan, tetrahydro- (I)
U125	Furfural (I)
U124	Furfuran (I)
U206	D-Glucopyranose, 2-deoxy-2(3-methyl-3-nitrosoureido)-
U126	Glycidylaldehyde
U163	Guanidine, N-nitroso-N-methyl-N'nitro-
U127	Hexachlorobenzene
U128	Hexachlorobutadiene
U129	Hexachlorocyclohexane (gamma isomer)
U130	Hexachlorocyclopentadiene
U131	Hexachloroethane
U132	Hexachlorophene
U243	Hexachloropropene
U133	Hydrazine (R,T)
U086	Hydrazine, 1,2-diethyl-
U098	Hydrazine, 1,1-dimethyl-
U099	Hydrazine, 1,2-dimethyl-
U109	Hydrazine, 1,2-diphenyl-
U134	Hydrofluoric acid (C,T)
U134	Hydrogen fluoride (C,T)
U135	Hydrogen sulfide
U096	Hydroperoxide, 1-methyl-1-phenylethyl- (R)
U136	Hydroxydimethylarsine oxide
U116	2-Imidazolidinethione
U137	Indeno(1,2,3-cd)pyrene
U139	Iron dextran
U140	Isobutyl alcohol (I,T)
U141	Isosafrole
U142	Kepone
U143	Lasiocarpine
U144	Lead acetate
U145	Lead phosphate
U146	Lead subacetate
U129	Lindane
U147	Maleic anhydride
U148	Maleic hydrazide
U149	Malononitrile
U150	Melphalan
U151	Mercury
U152	Methacrylonitrile (I,T)
U092	Methanamine, N-methyl- (I)
U029	Methane, bromo-
U045	Methane, chloro- (I,T)
U046	Methane, chloromethoxy-
U068	Methane, dibromo-
U080	Methane, dichloro-
U075	Methane, dichlorodifluoro-
U138	Methane, iodo-
U119	Methanesulfonic acid, ethyl ester
U211	Methane, tetrachloro-
U121	Methane, trichlorofluoro-
U153	Methanethiol (I,T)
U225	Methane, tribromo-
U044	Methane, trichloro-
U121	Methane, trichlorofluoro-
U123	Methanoic acid (C,T)
U036	4,7-Methanoindan, 1,2,4,5,6,7,8,8-octachloro-3a,4,7,7a-tetrahydro-
U154	Methanol (I)
U155	Methapyrilene
U247	Methoxychlor.
U154	Methyl alcohol (I)
U029	Methyl bromide
U186	1-Methylbutadiene (I)
U045	Methyl chloride (I,T)

CHECKLIST I B (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
toxic wastes	261.33(f)	(continued)	

Hazardous Waste No	Substance
U156	Methyl chlorocarbonate (I,T)
U226	Methylchloroform
U157	3-Methylcholanthrene
U158	4,4'-Methylenebis(2-chloroaniline)
U132	2,2'-Methylenebis(3,4,6-trichlorophenol)
U068	Methylene bromide
U080	Methylene chloride
U122	Methylene oxide
U159	Methyl ethyl ketone (I,T)
U160	Methyl ethyl ketone peroxide (R,T)
U138	Methyl iodide
U161	Methyl isobutyl ketone (I)
U162	Methyl methacrylate (I,T)
U163	N-Methyl-N'-nitro-N-nitrosoguanidine
U161	4-Methyl-2-pentanone (I)
U164	Methylthiouracil
U010	Mitomycin C
U059	5,12-Naphthacenedione, (8S-cis)-8-acetyl-10-[(3-amino-2,3,6-trideoxy-alpha-L-lyxo-hexopyranosyl)oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-
U165	Naphthalene
U047	Naphthalene, 2-chloro-
U166	1,4-Naphthalenedione
U236	2,7-Naphthalenedisulfonic acid, 3,3'-[(3,3'-dimethyl-(1,1'-biphenyl)-4,4'-diyl)]-bis (azo)bis(5-amino-4-hydroxy)-, tetrasodium salt
U166	1,4-Naphthaquinone
U167	1-Naphthylamine
U168	2-Naphthylamine
U167	alpha-Naphthylamine
U168	beta-Naphthylamine
U026	2-Naphthylamine, N,N'-bis(2-chloro-methyl)-
U169	Nitrobenzene (I,T)
U170	p-Nitrophenol
U171	2-Nitropropane (I)
U172	N-Nitrosodi-n-butylamine
U173	N-Nitrosodiethanolamine
U174	N-Nitrosodiethylamine
U111	N-Nitroso-N-propylamine
U176	N-Nitroso-N-ethylurea
U177	N-Nitroso-N-methylurea
U178	N-Nitroso-N-methylurethane
U179	N-Nitrosopiperidine
U180	N-Nitrosopyrrolidine
U181	5-Nitro-o-toluidine
U193	1,2-Oxathiolane, 2,2-dioxide
U058	2H-1,3,2-Oxazaphosphorine, 2-[bis(2-chloro- ethyl)amino]tetrahydro-, oxide 2-
U115	Oxirane (I,T)
U041	Oxirane, 2-(chloromethyl)-
U182	Paraldehyde
U183	Pentachlorobenzene
U184	Pentachloroethane
U185	Pentachloronitrobenzene
U242	Pentachlorophenol
U186	1,3-Pentadiene (I)
U187	Phenacetin
U188	Phenol
U048	Phenol, 2-chloro-
U039	Phenol, 4-chloro-3-methyl-
U081	Phenol, 2,4-dichloro-
U082	Phenol, 2,6-dichloro-
U101	Phenol, 2,4-dimethyl-
U170	Phenol, 4-nitro-
U242	Phenol, pentachloro-
U212	Phenol, 2,3,4,6-tetrachloro-
U230	Phenol, 2,4,5-trichloro-
U231	Phenol, 2,4,6-trichloro-
U137	1,10-(1,2-phenylene)pyrene
U145	Phosphoric acid, Lead salt

Hazardous Waste No	Substance
U087	Phosphorodithioic acid, O,O-diethyl-, S-methylester
U189	Phosphorous sulfide (R)
U190	Phthalic anhydride
U191	2-Picoline
U192	Pronamide
U194	1-Propanamine (I,T)
U110	1-Propanamine, N-propyl- (I)
U066	Propane, 1,2-dibromo-3-chloro-
U149	Propanedinitrile
U171	Propane, 2-nitro- (I)
U027	Propane, 2,2'oxybis[2-chloro-
U193	1,3-Propane sultone
U235	1-Propanol, 2,3-dibromo-, phosphate (3:1)
U126	1-Propanol, 2,3-epoxy-
U140	1-Propanol, 2-methyl- (I,T)
U002	2-Propanone (I)
U007	2-Propenamide
U084	Propene, 1,3-dichloro-
U243	1-Propene, 1,1,2,3,3,3-hexachloro-
U009	2-Propenenitrile
U152	2-Propenenitrile, 2-methyl- (I,T)
U008	2-Propenoic acid (I)
U113	2-Propenoic acid, ethyl ester (I)
U118	2-Propenoic acid, 2-methyl-, ethyl ester
U162	2-Propenoic acid, 2-methyl-, methyl ester (I,T)
U233	Propionic acid, 2-(2,4,5-trichlorophenoxy)-
U194	n-Propylamine (I,T)
U083	Propylene dichloride
U196	Pyridine
U155	Pyridine, 2-[(2-(dimethylamino)-2-thenylamino]-
U179	Pyridine, hexahydro-N-nitroso-
U191	Pyridine, 2-methyl-
U164	4(1H)-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-
U180	Pyrrole, tetrahydro-N-nitroso-
U200	Reserpine
U201	Resorcinol
U202	Saccharin and salts
U203	Safrole
U204	Selenious acid
U204	Selenium dioxide
U205	Selenium disulfide (R,T)
U015	L-Serine, diazoacetate (ester)
U233	Silvex
U089	4,4'-Stilbenediol, alpha,alpha'-diethyl-
U206	Streptozotocin
U135	Sulfur hydride
U103	Sulfuric acid, dimethyl ester
U189	Sulfur phosphide (R)
U205	Sulfur selenide (R,T)
U232	2,4,5-T
U207	1,2,4,5-Tetrachlorobenzene
U208	1,1,1,2-Tetrachloroethane
U209	1,1,2,2-Tetrachloroethane
U210	Tetrachloroethylene
U212	2,3,4,6-Tetrachlorophenol
U213	Tetrahydrofuran (I)
U214	Thallium(I) acetate
U215	Thallium(I) carbonate
U216	Thallium(I) chloride
U217	Thallium(I) nitrate
U218	Thioacetamide
U153	Thiomethanol (I,T)
U219	Thiourea
U244	Thiram
U220	Toluene
U221	Toluenediamine
U223	Toluene diisocyanate (R,T)
U222	O-Toluidine hydrochloride
U011	1H-1,2,4-Triazol-3-amine

Hazardous Waste No	Substance
U226	1,1,1-Trichloroethane
U227	1,1,2-Trichloroethane
U228	Trichloroethene
U228	Trichloroethylene
U121	Trichloromonofluoromethane
U230	2,4,5-Trichlorophenol
U231	2,4,6-Trichlorophenol
U232	2,4,5-Trichlorophenoxyacetic acid
U234	sym-Trinitrobenzene (R,T)
U182	1,3,5-Trioxane, 2,4,5-trimethyl-
U235	Tris(2,3-dibromopropyl) phosphate
U236	Trypan blue
U237	Uracil, 5[bis(2-chloromethyl)amino]-
U237	Uracil mustard
U043	Vinyl chloride
U239	Xylene (I)
U200	Yohimban-16-carboxylic acid, 11,17-dimethoxy-18-[(3,4,5-trimethoxy-benzoyl)oxy]-, methyl ester,

CHECKLIST I C

CHARACTERISTICS

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
SUBPART C - CHARACTERISTICS OF HAZARDOUS WASTE			
CHARACTERISTIC OF IGNITABILITY			
liquid/flash point less than 60°C.	261.21(a)(1)		
non-liquid/burns under standard temperature and pressure	261.21(a)(2)		
ignitable compressed gas	261.21(a)(3)		
oxidizer	261.21(a)(4)		
EPA number D001	261.21(b)		
CHRACTERISTIC OF CORROSIVITY			
aqueous/ph < 2 or > 12.5	261.22(a)(1)		
liquid/corrodes steel	261.22(a)(2)		
EPA number D002	261.22(b)		
CHARACTERISTIC OF REACTIVITY			
unstable/violent change	261.23(a)(1)		
reacts violently with water	261.23(a)(2)		
potentially explosive	261.23(a)(3)		
generates toxic gases	261.23(a)(4)		
cyanide or sulfide bearing/generates toxicgases	261.23(a)(5)		
detonation/explosion, if heated	261.23(a)(6)		
detonation/explosion at STP	261.23(a)(7)		
forbidden explosive	261.23(a)(8)		
EPA number D003	261.23(b)		
CHARACTERISTIC OF EP TOXICITY			
test critieria and waste list	261.24(a)		
EPA numbers	261.24(b)		

CHECKLIST II

GENERATOR REQUIREMENTS

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
SUBPART A - GENERAL			
PURPOSE, SCOPE, AND APPLICABILITY			
on site generators	262.10(b)		
importer	262.10(c)		
farmer's requirements	262.10(d)		
Compliance requirements and penalties	262.10(e)		
Initiators of shipment	262.10(f)		
HAZARDOUS WASTE DETERMINATION			
Excluded under 261.4	262.11(a)		
listed in Subpart D, Part 261	262.11(b)		
identified in Subpart C, Part 261	262.11(c)		
testing	262.11(c)(1)		
characteristics	262.11(c)(2)		
EPA IDENTIFICATION NUMBERS			
number required	262.12(a)		
application	262.12(b)		
offers prohibited	262.12(c)		
SUBPART B - THE MANIFEST			
GENERAL REQUIREMENTS			
off-site transportation	262.20(a)		

CHECKLIST II (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
facility	262.20(b)		
alternate	262.20(c)		
failure to deliver	262.20(d)		
REQUIRED INFORMATION			
document number	262.21(a)(1)		
name, address, phone number, EPA I.D. number	262.21(a)(2)		
name, I.D. number of transporter	262.21(a)(3)		
name, address, I.D. number of Facilities	262.21(a)(4)		
description per 49 CFR 172	262.21(a)(5)		
quantity, type, number	262.21(a)(6)		
certification	262.21(b)		
NUMBER OF COPIES			
file Copies	262.22		
USE OF THE MANIFEST			
generators duties	262.23(a)		
generators signature	262.23(a)(1)		
transporter signature/ date	262.23(a)(2)		
retain copy	262.23(a)(3)		
copies to transporter	262.23(b)		
shipment by water	262.23(c)		
shipment by railroad	262.23(d)		
SUBPART C - PRE-TRANSPORT REQUIREMENTS			
PACKAGING			
generator's duty	262.30		

CHECKLIST II (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
LABELING			
generator's duty	262.31		
MARKING			
package	262.32(a)		
container	262.32(b)		
PLACARDING			
generator's duty	262.33		
ACCUMULATION TIME			
90 days without a permit provided that	262.34(a)		
containers .	262.34(a)(1)		
dated	262.34(a)(2)		
labeled	262.34(a)(3)		
compliance with 265	262.34(a)(4)		
criteria for extension when stored over 90 days	262.34(b)		

SUBPART D - RECORDKEEPING AND REPORTING

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
RECORDKEEPING			
copies retained	262.40(a)		
biennial report and exception report	262.40(b)		
test results and analyses	262.40(c)		
automatic extension	262.40(d)		
BIENNIAL REPORTING			
off-site shipper	262.41(a)		
on-site handler	262.41(b)		

CHECKLIST II (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
EXCEPTION REPORTING			
copy of manifest not received/35 days	262.42(a)		
exception report/ 45 days	262.42(b)		
copy of manifest	262.42(b)(1)		
letter	262.42(b)(2)		
ADDITIONAL REPORTING			
quantity and disposition	262.43		

SUBPART E - SPECIAL CONDITIONS

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
INTERNATIONAL SHIPMENTS			
requirements for importers or exporters	262.50(a)		
exporters duties	262.50(b)		
contents of written notice to Director	262.50(b)(1)		
confirm delivery	262.50(b)(2)		
exceptions to meeting manifest requirements	262.50(b)(3)		
exception report critiera	262.50(c)		
exception to manifest for importers	262.50(d)		
FARMERS			
pesticide container	262.51		

CHECKLIST III

TRANSPORTER REQUIREMENTS

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
SUBPART A - GENERAL			
SCOPE			
transportation standards	263.10(a)		
on-site transportation excluded	263.10(b)		
other regulations applicable	263.10(c)		
importers of waste	263.10(c)(1)		
mixers of waste	263.10(c)(2)		
EPA IDENTIFICATION NUMBER			
number required	263.11(a)		
application	263.11(b)		
TRANSFER FACILITY REQUIREMENTS			
exception	263.12		
SUBPART B - COMPLIANCE WITH THE MANIFEST SYSTEM AND RECORDKEEPING			
MANIFEST SYSTEM			
manifest required	263.20(a)		
signature and date	263.20(b)		
accompanies waste	263.20(c)		
delivery to another transporters	263.20(d)		
water shipments	263.20(e)		
delivered by water	263.20(e)(1)		
shipping paper	263.20(e)(2)		
signature of owner	263.20(e)(3)		
signature of transporter	263.20(e)(4)		
copies retained	263.20(e)(5)		

CHECKLIST III (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
rail shipments	263.20(f)		
initial rail transporter	263.20(f)(1)		
shipping paper	263.20(f)(2)		
delivery to facility	263.20(f)(3)		
delivery to non-rail transporter	263.20(f)(4)		
acceptance from rail transporter	263.20(f)(5)		
exporters	263.20(g)		
date	263.20(g)(1)		
signature	263.20(g)(2)		
return copy	263.20(g)(3)		
COMPLIANCE WITH MANIFEST			
quantity	263.21(a)		
designated facility	263.21(a)(1)		
alternate facility	263.21(a)(2)		
transporter	263.21(a)(3)		
place outside U.S.	263.21(a)(4)		
inability to deliver/ revision of manifest	263.21(b)		
RECORDKEEPING			
retain copies	263.22(a)		
water transporter	263.22(b)		
rail transporter	263.22(c)		
exporter	263.22(d)		
automatic extension	263.22(e)		

CHECKLIST III (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
SUBPART C - HAZARDOUS WASTE DISCHARGES			
IMMEDIATE ACTION			
transporter action	263.30(a)		
removal/authorization by official	263.30(b)		
duties of transporter	263.30(c)		
notice	263.30(c)(1)		
report	263.30(c)(2)		
water transporter	263.30(d)		
DISCHARGE CLEAN-UP			
transporter duty	263.31		

CHECKLIST IV A

FACILITY REQUIREMENTS

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
SUBPART A - GENERAL			
APPLICABILITY			
all o and o of TSDFs with exceptions	264.1(b)		
ocean disposal/ permit by rule	264.1(c)		
UIC/permit by rule	264.1(d)		
POTW/permit by rule	264.1(e)		
post authorization rule making	264.1(f)		
exceptions	264.1(g)		
SUBPART B - GENERAL FACILITY STANDARDS			
IDENTIFICATION NUMBER			
EPA number required	264.11		
NOTICES			
hazardous waste from foreign source	264.12(a)		
hazardous waste from off-site source	264.12(b)		
new o/o	264.12(c)		
GENERAL WASTE ANALYSIS			
waste analysis	264.13(a)		
waste analysis plan	264.13(b)		
off-site facility waste analysis plan	264.13(c)		
SECURITY			
entry	264.14(a)		
surveillance	264.14(b)(1)		
barrier and control	264.14(b)(2)		
sign	264.14(c)		

CHECKLIST IV A (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
GENERAL INSPECTION REQUIREMENTS			
inspections	264.15(a)		
schedule	264.15(b)		
remedies	264.15(c)		
recordkeeping	264.15(d)		
PERSONNEL TRAINING			
training	264.16(a)		
timing of instruction	264.16(b)		
annual review	264.16(c)		
recordkeeping	264.16(d)		
training records	264.16(e)		
GENERAL REQUIREMENTS FOR IGNITABLE, REACTIVE, OR INCOMPATIBLE WASTES			
precautions	264.17		
LOCATION STANDARDS			
seismic	264.18(a)		
floodplains (applicable only to subparts I, J, K, L, & O)	264.18(b)		
SUBPART C - PREPAREDNESS AND PREVENTION			
DESIGN AND OPERATION OF FACILITY			
requirements	264.31		
REQUIRED EQUIPMENT			
internal communications or alarm	264.32(a)		
telephone or equivalent	264.32(b)		
fire extinguisher	264.32(c)		
water	264.32(d)		

CHECKLIST IV A (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
TESTING AND MAINTENANCE OF EQUIPMENT			
assurance	264.33		
ACCESS TO COMMUNICATIONS OR ALARM SYSTEM			
handling hazardous waste	264.34(a)		
one employee only	264.34(b)		
REQUIRED AISLE SPACE			
requirement	264.35		
ARRANGEMENTS WITH LOCAL AUTHORITIES			
arrangements	264.37(a)		
document refusals	264.37(b)		
SUBPART D - CONTINGENCY PLAN AND EMERGENCY PROCEDURES			
PURPOSE AND IMPLEMENTATION OF CONTINGENCY PLAN			
purpose	264.51(a)		
implementation	264.51(b)		
CONTENT OF CONTINGENCY PLAN			
actions to take	264.52(a)		
SPCC	264.52(b)		
local police etc.	264.52(c)		
names and addresses	264.52(d)		
emergency equipment	264.52(e)		
evacuation	264.52(f)		
COPIES OF CONTINGENCY PLAN			
facility	264.53(a)		
local police etc.	264.53(b)		

CHECKLIST IV A (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
AMENDMENT OF CONTINGENCY PLAN			
facility permit revision	264.54(a)		
plan failure	264.54(b)		
facility change	264.54(c)		
list of coordinator change	264.54(d)		
list of equipment change	264.54(e)		
EMERGENCY COORDINATOR			
duties	264.55		
EMERGENCY PROCEDURES			
procedures	264.56(a)		
release, fire, explosion	264.56(b)		
hazard assessment	264.56(c)		
reporting	264.56(d)		
measures during emergency	264.56(e)		
stop operation procedures	264.56(f)		
post-emergency TSD	264.56(g)		
procedures after emergency	264.56(h)		
notifications	264.56(i)		
operation record	264.56(j)		
SUBPART E - MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING			
APPLICABILITY			
both on & off-site facilities. §71, 72 & 76 do not apply to o/o of on-site facilities that do not receive from off-site	264.70		

CHECKLIST IV A (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
USE OF MANIFEST SYSTEM			
waste accompanied by manifest	264.71(a)		
waste accompanied by shipping paper	264.71(b)		
MANIFEST DISCREPANCIES			
definitions	264.72(a)		
action on discovery	264.72(b)		
OPERATING RECORD			
record	264.73(a)		
information	264.73(b)		
AVAILABILITY, RETENTION, DISPOSITION OF RECORDS			
availability	264.74(a)		
retention period	264.74(b)		
copies	264.74(c)		
BIENNIAL REPORT			
report requirements	264.75		
UNMANIFESTED WASTE REPORT			
report requirements	264.76		
ADDITIONAL REPORTS			
fires, explosions	264.77(a)		
facility closure	264.77(c)		

SUBPART F - GROUNDWATER PROTECTION

APPLICABILITY			
TSD in SI, WP, LT or LF	264.90(a)		

CHECKLIST IV A (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
exemptions	264.90(b)		
time period	264.90(c)		
REQUIRED PROGRAMS			
detection monitoring, compliance monitoring, correction action	264.91(a)		
specified in permit	264.91(b)		
GROUNDWATER PROTECTION STANDARD			
owner must comply	264.92		
HAZARDOUS CONSTITUENTS			
specified in permit	264.93(a)		
exemption considerations	264.93(b)		
other considerations	264.93(c)		
CONCENTRATION LIMITS			
specified in permit	264.94(a)		
factors for setting alternate limits	264.94(b)		
must consider 122.35	264.94(c)		
POINT OF COMPLIANCE			
specified in permit	264.95(a)		
definition of waste management area	264.95(b)		
COMPLIANCE PERIOD			
specified in permit	264.96(a)		
beginning	264.96(b)		
end	264.96(c)		

CHECKLIST IV A (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
GENERAL GROUND-WATER MONITORING REQUIREMENTS			
wells	264.97(a)		
multiple units	264.97(b)		
well casing	264.97(c)		
consistency	264.97(d)		
appropriateness and accuracy	264.97(e)		
groundwater surface elev.	264.97(f)		
background quality	264.97(g)		
statistical procedure	264.97(h)		
DETECTION MONITORING PROGRAM			
parameters specified in permit	264.98(a)		
owner must have ground water monitor system	264.98(b)		
background values specifed in permit	264.98(c)		
owner must determine ground water quality	264.98(d)		
owner must determine flow rate	264.98(e)		
owner must meet 264.97(d) & (e)	264.98(f)		
owner must determine increase over background	264.98(g)		
actions when increase occurs	264.98(h)		
demonstration - increase from other source	264.98(i)		
permit modifications	264.98(j)		
owner must assure compliance	264.98(k)		
COMPLIANCE MONITORING PROGRAM			
standard specified in permit	264.99(a)		

CHECKLIST IV A (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
system must comply	264.99(b)		
concentration limits specified in permit	264.99(c)		
concentration will be determined	264.99(d)		
flow rate will be determined	264.99(e)		
samples must be analyzed	264.99(f)		
procedures for sampling	264.99(g)		
action when standards exceeded	264.99(i)		
demonstration increase due to other sources	264.99(j)		
permit modification	264.99(k)		
compliance must be assured	264.99(l)		
CORRECTIVE ACTION PROGRAM			
standards set in permit	264.100(a)		
specific measures set in permit	264.100(b)		
permit states time to begin correction	264.100(c)		
groundwater monitoring in corrective action	264.100(d)		
other corrective actions	264.100(e)		
period of corrective action	264.100(f)		
written notification	264.100(g)		
permit modification	264.100(h)		

SUBPART G - CLOSURE AND POST-CLOSURE

APPLICABILITY			
closure of all facilities	264.110(a)		
post-closure of all disposal and some other facilities	264.110(b)		

CHECKLIST IV A (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
CLOSURE PERFORMANCE STANDARD			
minimizes maintenance	264.111(a)		
controls, minimizes post-closure escape	264.111(b)		
CLOSURE PLAN; AMENDMENT OF PLAN			
written plan required	264.112(a)		
describes how and when facility will be closed	264.112(a)(1)		
estimates maximum waste inventory	264.112(a)(2)		
describes steps to decontaminate equipment	264.112(a)(3)		
estimates schedule of closure	264.112(a)(4)		
amendment	264.112(b)		
notification prior to closure start	264.112(c)		
CLOSURE: TIME ALLOWED FOR CLOSURE			
treat final volume within 90 days or meet criteria for longer period	264.113(a)		
complete closure within 180 days or meet criteria for longer period	264.113(b)		
DISPOSAL OR DECONTAMINATION OF EQUIPMENT			
requirement at closure	264.114		
CERTIFICATION OF CLOSURE			
requirement at closure	264.115		
POST-CLOSURE CARE AND USE OF PROPERTY			
continue care 30 years	264.117(a)(1)		
reduction or extension of care period	264.117(a)(2)		
security requirements	264.117(b)		
post closure use limits	264.117(c)		
activities in accord with plan	264.117(d)		

CHECKLIST IV A (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
POST-CLOSURE PLAN; AMENDMENT OF PLAN			
written plan and specified activities required	264.118(a)		
amendment	264.118(b)		
permit modification timing	264.118(c)		
NOTICE TO LOCAL LAND AUTHORITY			
survey plat	264.119		
NOTICE IN DEED TO PROPERTY			
requirement to enter note on deed	264.120(a)		
conditions for removal of notation	264.120(b)		

SUBPART H - FINANCIAL REQUIREMENTS

APPLICABILITY			
to all HWM facilities	264.140(a)		
to specified facilities only	264.140(b)		
State exemption	264.140(c)		
DEFINITIONS			
closure plan	264.141(a)		
current closure cost estimate	264.141(b)		
current post-closure cost estimate	264.141(c)		
parent corporation	264.141(d)		
post-closure plan	264.141(e)		
terms used in financial tests	264.141(f)		
terms used in liability requirements	264.141(g)		

CHECKLIST IV A (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
COST ESTIMATE FOR CLOSURE			
o/o must have	264.142(a)		
adjust for inflation	264.142(b)		
revise when closure plan changes	264.142(c)		
keep at the facility	264.142(d)		
FINANCIAL ASSURANCE FOR CLOSURE			
options: closure trust fund	264.143(a)		
surety bond guaranteeing payment into a closure trust fund	264.143(b)		
surety bond guaranteeing performance of closure	264.143(c)		
closure letter of credit	264.143(d)		
closure insurance	264.143(e)		
financial test and corporate guarantee for closure	264.143(f)		
use of multiple financial mechanisms	264.143(g)		
use of a financial mechanism for multiple facilities	264.143(h)		
release of the o/o from the requirements of this section	264.143(i)		
COST ESTIMATE FOR POST-CLOSURE CARE			
annual cost of post-closure monitoring and maintenance	264.144(a)		
adjust for inflation	264.144(b)		
revise when post closure plan changes	264.144(c)		
keep at facility	264.144(d)		

CHECKLIST IV A (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
FINANCIAL ASSURANCE FOR POST-CLOSURE CARE			
options: post closure trust fund	264.145(a)		
surety bond guaranteeing payment into a post-closure trust fund	264.145(b)		
surety bond guaranteeing performance of post-closure care	264.145(c)		
post-closure letter of credit	264.145(d)		
post-closure insurance	264.145(e)		
financial test and corporate guarantee for post-closure care	264.145(f)		
use of multiple financial mechanisms	264.145(g)		
use of a financial mechanism for multiple facilities	264.145(h)		
release of the o/o from the requirements of this section	264.145(i)		
USE OF A MECHANISM FOR FINANCIAL ASSURANCE OF BOTH CLOSURE AND POST-CLOSURE CARE			
funds must be equal to sum if separate mechanisms are used	264.146		
LIABILITY REQUIREMENTS			
coverage for sudden accidental occurrences	264.147(a)		
coverage for nonsudden accidental occurrences	264.147(b)		
request for variance	264.147(c)		
adjustments by the Director	264.147(d)		
period of coverage	264.147(e)		
financial test for liability coverage	264.147(f)		

CHECKLIST IV A (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
INCAPACITY OF O/O, GUARANTORS, OR FINANCIAL INSTITUTIONS			
incapacity of o/o or guarantor	264.148(a)		
incapacity of financial institution	264.148(b)		
WORDING OF THE INSTRUMENTS			
trust agreement	264.151(a)		
financial guarantee bond	264.151(b)		
performance bond	264.151(c)		
irrevocable standby letter of credit	264.151(d)		
certificate of insurance for closure or post-closure care	264.151(e)		
letter from chief financial officer (financial assurance)	264.151(f)		
letter from chief financial officer (liability coverage)	264.151(g)		
corporate guarantee for closure or post-closure care	264.151(h)		
hazardous waste facility liability endorsement	264.151(i)		
hazardous waste facility certificate of liability insurance	264.151(j)		

CHECKLIST IV A (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY		IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
		STATUTE	REGULATION	
SUBPART I - USE AND MANAGEMENT OF CONTAINERS				
APPLICABILITY				
storage	264.170			
CONDITION OF CONTAINERS				
requirements when containers bad	264.171			
COMPATIBILITY OF WASTE WITH CONTAINERS				
must be compatible	264.172			
MANAGEMENT OF CONTAINERS				
Keep closed	264.173(a)			
care in handling	264.173(b)			
INSPECTIONS				
weekly	264.174			
CONTAINMENT				
requires a containment system	264.175(a)			
system design and operation requirements	264.175(b)			
exception	264.175(c)			
SPECIAL REQUIREMENTS FOR IGNITABLE OR REACTIVE WASTE				
Required distance from property line	264.176			
SPECIAL REQUIREMENTS FOR INCOMPATIBLE WASTES				
not to be placed in same container	264.177(a)			
Previously used container	264.177(b)			
means of separation	264.177(c)			
CLOSURE				
residues must be removed	264.178			

CHECKLIST IV A (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
SUBPART J - TANKS			
APPLICABILITY			
applicability	264.190(a)		
exceptions	264.190(b)		
DESIGN OF TANKS			
design requirements	264.191		
GENERAL OPERATING REQUIREMENTS			
tank - waste compatibility	264.192(a)		
prevention of overfilling	264.192(b)		
INSPECTIONS			
items to be inspected	264.194(a)		
schedule and procedure	264.194(b)		
contingency plan	264.194(c)		
CLOSURE			
closure requirements	264.197		
SPECIAL REQUIREMENTS FOR IGNITABLE OR REACTIVE WASTES			
limits/conditions for storage in tanks	264.198(a)		
NFPA Requirements	264.198(b)		
SPECIAL REQUIREMENTS FOR INCOMPATIBLE WASTES			
prohibitions in same tank	264.199(a)		
prohibitions in unwashed tank	264.199(b)		

CHECKLIST IV A (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
SUBPART K - SURFACE IMPOUNDMENTS			
APPLICABILITY			
apply to TSD facilities	264.220		
DESIGN AND OPERATING REQUIREMENTS			
for liner design, construction and installation	264.221(a)		
exemption consideration	264.221(b)		
to prevent overtopping and malfunctions	264.221(c)		
for dike performance	264.221(d)		
specified in the permit	264.221(e)		
DOUBLE-LINED SURFACE IMPOUNDMENTS; EXEMPTION FROM SUBPART F GROUND-WATER PROTECTION REQUIREMENTS			
conditions for exemption	264.222(a)		
requirements if liquid leaks into leak detection system	264.222(b)		
specified in the permit	264.222(c)		
MONITORING AND INSPECTION			
during construction and installation	264.226(a)		
during operation	264.226(b)		
after extended inactive periods	264.226(c)		
EMERGENCY REPAIRS; CONTINGENCY PLANS			
conditions for removal from service	264.227(a)		
immediate actions on removal from service	264.227(b)		
compliance procedure put in contingency plan	264.227(c)		
conditions for restoration of service	264.227(d)		
closure required if not repaired	264.227(e)		

CHECKLIST IV A (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
CLOSURE AND POST-CLOSURE CARE			
closure requirements	264.228(a)		
post-closure requirements	264.228(b)		
needed plans whenever liner requirements are not met	264.228(c)(1)		
closure cost estimates	264.228(c)(2)		
post-closure leak notification	264.228(d)		
SPECIAL REQUIREMENTS FOR IGNITABLE OR REACTIVE WASTE			
waste treatment prior to placement	264.229(a)		
prevention of reaction by waste management	264.229(b)		
emergency placement	264.229(c)		
SPECIAL REQUIREMENTS FOR INCOMPATIBLE WASTES			
prohibited co-disposal	264.230		

SUBPART L - WASTE PILES

APPLICABILITY			
storage and treatment facilities	264.250(a)		
closed piles with waste in place	264.250(b)		
piles under a structure	264.250(c)		
DESIGN AND OPERATING REQUIREMENTS			
for liner and leachate collection system	264.251(a)		
exemption criteria	264.251(b)		
run-on control	264.251(c)		
run-off management	264.251(d)		
collection & holding	264.251(e)		

CHECKLIST IV A (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
wind dispersal	264.251(f)		
specified in permit	264.251(g)		
DOUBLE-LINED PILES: EXEMPTION FROM SUBPART F GROUND-WATER PROTECTION REQUIREMENTS			
conditions for exemptions	264.252(a)		
leak detection response	264.252(b)		
practices specified in the permit	264.252(c)		
INSPECTION OF LINERS: EXEMPTION FROM SUBPART F GROUND WATER PROTECTION REQUIREMENTS			
conditions for exemptions	264.253(a)		
leak detection response	264.253(b)		
permit specification	264.253(c)		
MONITORING AND INSPECTION			
during construction or installation	264.254(a)		
during operation	264.254(b)		
SPECIAL REQUIREMENTS FOR IGNITABLE OR REACTIVE WASTE			
treatment	264.256(a)		
protection by waste management	264.256(b)		
SPECIAL REQUIREMENTS FOR INCOMPATIBLE WASTES			
co-placement prohibitions	264.257(a)		
waste separation	264.257(b)		
base decontamination	264.257(c)		
CLOSURE AND POST-CLOSURE CARE			
closure requirements	264.258(a)		
post-closure care	264.258(b)		
needed plans whenever liner requirements are not met	264.258(c)(1)		
cost estimates	264.258(c)(2)		

CHECKLIST IV A (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY		IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
		STATUTE	REGULATION	
SUBPART M - LAND TREATMENT				
APPLICABILITY				
treatment or disposal facilities	264.270			
TREATMENT PROGRAM				
elements of the program	264.271(a)			
hazardous constituents specified in the permit	264.271(b)			
treatment zone dimensions specified	264.271(c)			
TREATMENT DEMONSTRATION				
treatment demonstration required for each waste	264.272(a)			
acceptable evidence	264.272(b)			
field/lab test requirements	264.272(c)			
DESIGN AND OPERATING REQUIREMENTS				
minimum requirements specified in the permit	264.273(a)			
run-off control	264.273(b)			
run-on control	264.273(c)			
storn water run-off management system	264.273(d)			
holding facilities	264.273(e)			
wind dispersal control	264.273(f)			
inspections	264.273(g)			
FOOD-CHAIN CROPS				
demonstration of no health risk	264.276(a)(1)			
demonstration timing	264.276(a)(2)			
required evidence for acceptable demonstration	264.276(a)(3)			
demonstration permit	264.276(a)(4)			
requirements if waste contains cadmium	264.276(b)			

CHECKLIST IV A (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
UNSATURATED ZONE MONITORING			
monitoring for specific constituents	264.278(a)		
monitoring system details	264.278(b)		
background value needed for each hazardous constituent	264.278(c)		
test frequency and timing	264.278(d)		
sampling and analysis procedures	264.278(e)		
comparison with background values to determine statistically significant change	264.278(f)		
actions if significant increase occurs	264.278(g)		
requirements for demonstration that owner not responsible for increase	264.278(h)		
RECORDKEEPING			
operating record to include waste application dates and rates	264.279		
CLOSURE AND POST-CLOSURE CARE			
closure care	264.280(a)		
closure certification	264.280(b)		
post-closure care	264.280(c)		
exemption	264.280(d)		
Subpart F exemption	264.280(e)		
SPECIAL REQUIREMENTS FOR IGNITABLE OR REACTIVE WASTES			
conditions for disposal	264.281(a)		
preventive management	264.281(b)		
SPECIAL REQUIREMENTS FOR INCOMPATIBLE WASTES			
conditions for disposal	264.282		

CHECKLIST IV A (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
SUBPART N - LANDFILLS			
APPLICABILITY			
disposal facilities	264.300		
DESIGN AND OPERATING REQUIREMENTS			
liner requirements	264.301(a)(1		
leachate collection & removal system	264.301(a)(2		
exemption considerations	264.301(b)		
run-on control	264.301(c)		
run-off management	264.301(d)		
holding facilities management	264.301(e)		
wind dispersal control	264.301(f)		
permit specifications	264.301(g)		
DOUBLE-LINED LANDFILLS: EXEMPTION FROM SUBPART F GROUND-WATER PROTECTION REQUIREMENTS			
exemption conditions	264.302(a)		
actions required if liquid leaks into leak detection system	264.302(b)		
permit specifications	264.302(c)		
MONITORING AND INSPECTION			
during construction or installation	264.303(a)		
during operation	264.303(b)		
SURVEYING AND RECORDKEEPING			
location and dimensions to be shown on maps	264.309(a)		
operating record to record contents of cells	264.309(b)		

CHECKLIST IV A (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
CLOSURE AND POST-CLOSURE CARE			
cover requirements at final closure	264.310(a)		
monitoring/maintenance in post-closure	264.310(b)		
notification of leakage detection	264.310(c)		
SPECIAL REQUIREMENTS FOR IGNITABLE OR REACTIVE WASTE			
placement prohibited unless treated to remove those characteristics	264.312(a)		
containerized wastes	264.312(b)		
SPECIAL REQUIREMENTS FOR INCOMPATIBLE WASTES			
conditions for Disposal	264.313		
SPECIAL REQUIREMENTS FOR LIQUID WASTES			
bulk liquid disposal	264.314(a)		
containerized liquid disposal	264.314(b)		
SPECIAL REQUIREMENTS FOR CONTAINERS			
minimum 90% full; or	264.315(a)		
crushed	264.315(b)		
DISPOSAL OF SMALL CONTAINERS OF HAZARDOUS WASTE IN OVERPACKED DRUMS (LAB PACKS)			
inside containers (DOT)	264.316(a)		
DOT over oackaging	264.316(b)		
absorbent material	264.316(c)		
incompatible wastes	264.316(d)		
reactive wastes	264.316(e)		

CHECKLIST IV A (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY		IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
		STATUTE	REGULATION	
SUBPART O - INCINERATORS				
APPLICABILITY				
exemptions	264.340(b)			
exemption for insignification concentrations	264.340(c)			
WASTE ANALYSIS				
in trial burn plan	264.341(a)			
during normal operation	264.341(b)			
PRINCIPAL ORGANIC HAZARDOUS CONSTITUENTS (POHCs)				
must be treated	264.342(a)			
basis for selection in permit	264.342(b)(1)			
designated in trial burns	264.342(b)(2)			
PERFORMANCE STANDARDS				
99.99% destruction	264.343(a)			
HCl emission control	264.343(b)			
particulate emission control	264.343(c)			
HAZARDOUS WASTE INCINERATOR PERMITS				
exemptions	264.344(a)			
permit modifications	264.344(b)			
permits for new incinerators	264.344(c)			
OPERATING REQUIREMENTS				
specified in the permit	264.345(a)			
specify operating limits for each waste feed composition	264.345(b)			
start-up and shut-down conditions	264.345(c)			

CHECKLIST IV A (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
fugitive emissions	264.345(d)		
automatic cut-off	264.345(e)		
cessation of operation	264.345(f)		
MONITORING AND INSPECTIONS			
monitoring	264.347(a)		
daily inspections	264.347(b)		
weekly inspections	264.347(c)		
operating log	264.347(d)		
CLOSURE			
remove residues	264.351		

CHECKLIST IV B

FACILITY INTERIM STATUS REQUIREMENTS

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN

SUBPART A - GENERAL

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
PURPOSE, SCOPE, AND APPLICABILITY			
all o/o of TSDFs with exceptions	265.1(b)		
persons to whom regs do not apply	265.1(c)		

SUBPART B - GENERAL FACILITY STANDARDS

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
IDENTIFICATION NUMBER			
EPA facility number required	265.11		
REQUIRED NOTICES			
hazardous waste from foreign source	265.12(a)		
new o/o	265.12(b)		
GENERAL WASTE ANALYSIS			
needed before TSD actions	265.13(a)(1)		
may come from existing sources	265.13(a)(2)		
must be current and accurate	265.13(a)(3)		
off-site o/o duty	263.13(a)(4)		
waste analysis plan	265.13(b)		
off-site facility waste analysis plan	265.13(c)		
SECURITY			
limited entry with exemptions	265.14(a)		
surveillance, or barrier and controlled entry	265.14(b)		
signs	265.14(c)		

CHECKLIST IV B (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
GENERAL INSPECTION REQUIREMENTS			
inspections by o/o	265.15(a)		
written schedule	265.15(b)		
remedies	265.15(c)		
recordkeeping	265.15(d)		
PERSONNEL TRAINING			
classroom or on-the-job	265.16(a)(1)		
qualified instructors	265.16(a)(2)		
emergency response	265.16(a)(3)		
timing of instruction	265.16(b)		
annual review	265.16(c)		
recordkeeping	265.16(d)		
records retention	265.16(e)		
GENERAL REQUIREMENTS FOR IGNITABLE, REACTIVE, OR INCOMPATIBLE WASTES			
accident prevention	265.17(a)		
operational precautions	265.17(b)		

SUBPART C - PREPAREDNESS AND PREVENTION

MAINTENANCE AND OPERATION OF FACILITY			
requirement	265.31		
REQUIRED EQUIPMENT			
alarm system	265.32(a)		
telephone or radio	265.32(b)		
fire, spill and decontamination equipment	265.32(c)		
water	265.32(d)		

CHECKLIST IV B (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
TESTING AND MAINTENANCE OF EQUIPMENT			
to assurance readiness	265.33		
ACCESS TO COMMUNICATIONS OR ALARM SYSTEM			
when handling waste	265.34(a)		
one employee only	265.34(b)		
REQUIRED AISLE SPACE			
must be maintained	265.35		
ARRANGEMENTS WITH LOCAL AUTHORITIES			
kinds to be tried	265.37(a)		
refusals: to be documented	265.37(b)		
SUBPART D - CONTINGENCY PLAN AND EMERGENCY PROCEDURES			
CONTENT OF CONTINGENCY PLAN			
actions to take	265.52(a)		
SPCC	265.52(b)		
local arrangements	265.52(c)		
emergency coordinator	265.52(d)		
emergency equipment	265.52(e)		
evacuation plan	265.52(f)		
COPIES OF CONTINGENCY PLAN			
kept at facility	265.53(a)		
sent to local police etc.	265.53(b)		
AMENDMENT OF CONTINGENCY PLAN			
revisions to regulations	265.54(a)		

CHECKLIST IV B (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
plan failure	265.54(b)		
facility changes	265.54(c)		
list of coordinators changes	265.54(d)		
list of equipment changes	265.54(e)		
EMERGENCY COORDINATOR			
duties	265.55		
EMERGENCY PROCEDURES			
given alerts	265.56(a)		
identify source	265.56(b)		
assess the hazard	265.56(c)		
report the findings	265.56(d)		
take emergency measures	265.56(e)		
monitor stopped operation	265.56(f)		
clean up after emergency	265.56(g)		
prepare to resume operations	265.56(h)		
notify authorities	265.56(i)		
record event and submit written report	265.56(j)		

SUBPART E - MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING

APPLICABILITY			
264.71, 72, 76 not applicable to o/o of on-site facilities that do not receive waste from off-site sources	265.70		
USE OF MANIFEST SYSTEM			
duties when waste comes with manifest	265.71(a)		
duties when waste comes with shipping paper	265.71(b)		

CHECKLIST IV B (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
duty under Part 262	265.71(c)		
MANIFEST DISCREPANCIES			
definition	265.72(a)		
o/o duties	265.72(b)		
OPERATING RECORD			
keep at facility	265.73(a)		
information required	265.73(b)		
AVAILABILITY, RETENTION, AND DISPOSITION OF RECORDS			
availability	265.74(a)		
retention	265.74(b)		
disposition	265.74(c)		
BIENNIAL REPORT			
facility identification	265.75(a)		
year	265.75(b)		
off-site sources identified	265.75(c)		
description of wastes received	265.75(d)		
method of TSD	265.75(e)		
monitoring data	265.75(f)		
closure/post-closure cost estimates	265.75(g)		
certification	265.75(h)		
UNMANIFESTED WASTE REPORT			
facility identification	265.76(a)		
data received	265.76(b)		
generator/transporter identify	265.76(c)		

CHECKLIST IV B (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
waste description	265.76(d)		
method of TSD	265.76(e)		
certification	265.76(f)		
explanation	265.76(g)		
ADDITIONAL REPORTS			
releases	265.77(a)		
ground-water contamination	265.77(b)		
facility closure	265.77(c)		

SUBPART F - GROUND-WATER MONITORING

APPLICABILITY			
facility types	265.90(a)		
monitoring system requirements	265.90(b)		
waiver demonstration	265.90(c)		
alternate system requirements	265.90(d)		
surface impoundment waiver	265.90(e)		
GROUND WATER MONITORING SYSTEM			
monitoring system capabilities	265.91(a)		
separate systems	265.91(b)		
well casing	265.91(c)		
SAMPLING AND ANALYSIS			
requirements	265.92(a)		
parameters	265.92(b)		
background	265.92(c)		

CHECKLIST IV B (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
frequency	265.92(d)		
surface elevation	265.92(e)		
PREPARATION, EVALUATION, AND RESPONSE			
prepare GW quality assessment program outline	265.93(a)		
compare parameters	265.93(b)		
action at discovery of increase (upgradient)	265.93(c)(1)		
action at discovery of increase (downgradient)	265.93(c)(2)		
report if increase confirmed downgradient	265.93(d)(1)		
submit GW QA program plan	265.93(d)(2)		
plan contents	265.93(d)(3)		
implement plan; determine extent of problem	265.93(d)(4)		
timing and report of determination	265.93(d)(5)		
option if waste has not entered GW	265.93(d)(6)		
action if waste has not entered GW	265.93(d)(7)		
assessment completion	265.93(e)		
action upon GW surface evaluations	265.93(f)		
RECORDSKEEPING AND REPORTING			
if not monitored per 265.93(d)(4)	265.94(a)		
if monitored per 265.93(d)(4)	265.94(b)		

SUBPART G - CLOSURE AND POST-CLOSURE

APPLICABILITY			
management facilities	265.110(a)		
disposal facilities	265.110(b)		

CHECKLIST IV B (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
CLOSURE PERFORMANCE STANDARD			
minimize maintenance	265.111(a)		
controls, minimizes, eliminates escape	265.111(b)		
CLOSURE PLAN; AMENDMENT OF PLAN			
written plan contents	265.112(a)		
amendment	265.112(b)		
submittal timing	265.112(c)		
public comment/hearing	265.112(d)		
CLOSURE; TIME ALLOWED FOR CLOSURE			
time to dispose of on site wastes	265.113(a)		
time to complete closure	265.113(b)		
DISPOSAL OR DECONTAMINATION OF EQUIPMENT			
requirement	265.114		
CERTIFICATION OF CLOSURE			
requirement	265.115		
POST-CLOSURE CARE AND USE OF PROPERTY			
length and minimum care	265.117(a)		
security requirements	265.117(b)		
limits on use of property	265.117(c)		
activities must accord with plan	265.117(d)		
POST-CLOSURE PLAN; AMENDMENT OF PLAN			
contents of required written plan	265.118(a)		
amendment/active life	265.118(b)		
time to submit plan	265.118(c)		
public comment/hearing	265.118(d)		

CHECKLIST IV B (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
amendment/post-closure	265.118(e)		
ways to modify plan	265.118(f)		
NOTICE TO LOCAL LAND AUTHORITY			
survey plat timing and contents	265.119		
NOTICE IN DEED TO PROPERTY			
requirement	265.120		

SUBPART H - FINANCIAL REQUIREMENTS

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
APPLICABILITY			
to all HWM facilities	265.140(a)		
to specified facilities only	265.140(b)		
State exemption	265.140(c)		
DEFINITIONS OF TERMS AS USED IN THIS SUBPART			
closure plan	265.141(a)		
current closure cost estimate	265.141(b)		
current post-closure cost estimate	265.141(c)		
parent corporation	265.141(d)		
post-closure plan	265.141(e)		
terms used in financial tests	265.141(f)		
terms used in liability requirements	265.141(g)		
COST ESTIMATE FOR CLOSURE			
o/o must have	265.142(a)		
adjust for inflation	265.142(b)		
revise when closure plan changes	265.142(c)		
keep at the facility	265.142(d)		

CHECKLIST IV B (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
FINANCIAL ASSURANCE FOR CLOSURE			
options: closure trust fund	265.143(a)		
surety bond guaranteeing payment into a closure trust fund	265.143(b)		
closure letter of credit	265.143(c)		
closure insurance	265.143(d)		
financial test and corporate guarantee for closure	265.143(e)		
use of multiple financial mechanisms	265.143(f)		
use of a financial mechanism for multiple facilities	265.143(g)		
release of the o/o from the requirement of this section	265.143(h)		
COST ESTIMATE FOR POST-CLOSURE CARE			
annual cost of post-closure monitoring and maintenance	265.144(a)		
adjust for inflation	265.144(b)		
revise when post-closure plan changes	265.144(c)		
kept at facility	265.144(d)		
FINANCIAL ASSURANCE FOR POST-CLOSURE CARE			
options a-e: post-closure trust fund	265.145(a)		
surety bond guaranteeing payment into a post-closure trust fund	265.145(b)		
post-closure letter of credit	265.145(c)		
post-closure insurance	265.145(d)		
financial test and corporate guarantee for post-closure care	265.145(e)		

CHECKLIST IV B (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
use of multiple financial mechanisms	265.145(f)		
use of a financial mechanism for multiple facilities	265.145(g)		
release of o/o from the requirements of this section	265.140(h)		
USE OF A MECHANISM FOR FINANCIAL ASSURANCE OF BOTH CLOSURE AND POST-CLOSURE CARE			
funds must be equal to sum if separate mechanisms used	265.146(a)		
LIABILITY REQUIREMENTS			
coverage for sudden accidental occurrences	265.147(a)		
coverage for non-sudden accidental occurences	265.147(b)		
request for varience	265.147(c)		
adjustments by the Director	265.147(d)		
period of coverage	265.147(e)		
financial test for liability	265.147(f)		
endorsement/certificate option expires 10/16/82	265.147(g)	N/A	
INCAPACITY OF O/O, GUARANTORS, OR FINANCIAL INSTITUTIONS			
incapacity of o/o or guarantor	265.148(a)		
incapacity of financial institution	265.148(b)		

CHECKLIST IV B (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
SUBPART I - USE AND MANAGEMENT OF CONTAINERS			
APPLICABILITY			
storage	265.170		
CONDITION OF CONTAINERS			
action when not good	265.171		
COMPATIBILITY OF WASTE WITH CONTAINER			
requirement	265.172		
MANAGEMENT OF CONTAINERS			
kept closed	265.173(a)		
handled with care	265.173(b)		
INSPECTIONS			
required	265.174		
SPECIAL REQUIREMENTS FOR IGNITABLE OR REACTIVE WASTE			
distance to property line	265.176		
SPECIAL REQUIREMENTS FOR INCOMPATIBLE WASTES			
same container	265.177(a)		
unwashed container	265.177(b)		
separation/protection	265.177(c)		
SUBPART J - TANKS			
APPLICABILITY			
treatment or storage	265.190		
GENERAL OPERATING REQUIREMENTS			
compliance with 265.17(b)	265.192(a)		

CHECKLIST IV B (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
restrictions	265.192(b)		
freeboard	265.192(c)		
continuous feed	265.192(d)		
WASTE ANALYSIS AND TRIAL TESTS			
added requirements when wastes are new or process is changed	265.193		
INSPECTIONS			
o/o requirements	265.194		
CLOSURE			
removal requirement	265.197		
SPECIAL REQUIREMENTS FOR IGNITABLE OR REACTIVE WASTE			
limits/conditions to place in a tank	265.198(a)		
NFPA requirements	265.198(b)		
SPECIAL REQUIREMENTS FOR INCOMPATIBLE WASTES			
in same tank	265.199(a)		
in unwashed tank	265.199(b)		

SUBPART K - SURFACE IMPOUNDMENTS

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
GENERAL OPERATING REQUIREMENTS			
Freeboard	265.222		
CONTAINMENT SYSTEM			
earth dikes	265.223		
WASTE ANALYSIS AND TRIAL TESTS			
added requirements when wastes or processes are different	265.225		

CHECKLIST IV B (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
INSPECTIONS			
o/o inspections	265.226		
CLOSURE AND POST-CLOSURE			
remove materials	265.228(a)		
demonstrate no hazard	265.228(b)		
post-closure	265.228(c)		
SPECIAL REQUIREMENTS FOR IGNITABLE OR REACTIVE WASTE			
limitations on placement	265.229		
SPECIAL REQUIREMENTS FOR INCOMPATIBLE WASTES			
prohibition	265.230		
SUBPART L - WASTE PILES			
APPLICABILITY			
treatment or storage	265.250		
PROTECTION FROM WIND			
wind dispersal control	265.251		
WASTE ANALYSIS			
requirement	265.252		
CONTAINMENT			
to control leachate/ run-off	265.253(a)		
control rain, run-on, free liquids	265.253(b)		
SPECIAL REQUIREMENTS FOR IGNITABLE OR REACTIVE WASTE			
prohibition & exceptions	265.256		

CHECKLIST IV B (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
SPECIAL REQUIREMENTS FOR INCOMPATIBLE WASTES			
placed in same pile	265.257(a)		
separation/protection	265.257(b)		
decontamination	265.257(c)		
CLOSURE AND POST-CLOSURE CARE			
remove materials	265.258(a)		
post-closure care	265.258(b)		

SUBPART M - LAND TREATMENT

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
GENERAL OPERATING REQUIREMENTS			
conditions for land treatment	265.272(a)		
run-on control	265.272(b)		
run-off control	265.272(c)		
collection and holding facilities	265.272(d)		
wind dispersal control	265.272(e)		
WASTE ANALYSIS			
EP toxicity	265.273(a)		
any listed waste	265.273(b)		
food chain crops	265.273(c)		
FOOD CHAIN CROPS			
notification	265.276(a)		
required demonstration	265.276(b)(1)		
demonstration data	265.276(b)(2)		
conditions re: cadmium waste	265.276(c)		

CHECKLIST IV B (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
UNSATURATED ZONE (ZONE OF AERATION) MONITORING			
monitoring plan requirement/purpose	265.278(a)		
plan contents	265.278(b)		
demonstration	265.278(c)		
availability of plan	265.278(d)		
further analyses	265.278(e)		
RECORDKEEPING			
requirement	265.279		
CLOSURE AND POST CLOSURE			
objectives of plans	265.280(a)		
factors needed to meet plan objectives	265.280(b)		
methods to address plan objectives	265.280(c)		
added closure requirements	265.280(d)		
alternate closure certification	265.280(e)		
added post-closure requirements	265.280(f)		
SPECIAL REQUIREMENTS FOR IGNITABLE OR REACTIVE WASTE			
conditions for treatment	265.281(a)		
alternate conditions	265.281(b)		
SPECIAL REQUIREMENTS FOR INCOMPATIBLE WASTES			
conditions	265.282		

SUBPART N - LANDFILLS

APPLICABILITY			
disposal, including waste piles used for disposal	265.300		

CHECKLIST IV B (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
GENERAL OPERATING REQUIREMENTS			
run-on control	265.302(a)		
run-off management	265.302(b)		
collection and holding facilities	265.302(c)		
wind dispersal control	265.302(d)		
SURVEYING AND RECORDKEEPING			
cell location	265.309(a)		
cell contents	265.309(b)		
CLOSURE AND POST-CLOSURE			
final cover	265.310(a)		
closure, post-closure objectives	265.310(b)		
factors needed to meet plan objectives	265.310(c)		
added post-closure requirements	265.310(d)		
SPECIAL REQUIREMENTS FOR IGNITABLE OR REACTIVE WASTES			
conditions for disposal	265.312(a)		
containerized ignitable wastes	265.312(b)		
solid ignitable wastes in containers	265.312(c)		
SPECIAL REQUIREMENTS FOR INCOMPATIBLE WASTES			
prohibition	265.313		
SPECIAL REQUIREMENTS FOR LIQUID WASTE			
conditions for bulk/ free liquid placement	265.314(a)		
conditions for containerized liquid placement	265.314(b)		
SPECIAL REQUIREMENTS FOR CONTAINERS			
empty containers	265.315(a)		

CHECKLIST IV B (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
DISPOSAL OF SMALL CONTAINERS OF HAZARDOUS WASTE IN OVERPACKED DRUMS (LAB PACKS)			
inside container	265.316(a)		
shipping container	265.316(b)		
absorbent material	265.316(c)		
incompatible waste	265.316(d)		
reactive waste	265.316(e)		
SUBPART O - INCINERATORS			
APPLICABILITY			
treatment	265.340(a)		
exemptions	265.340(b)		
WASTE ANALYSIS			
heating value	265.341(a)		
halogen and sulfur content	265.341(b)		
lead and mercury content	265.341(c)		
GENERAL OPERATING REQUIREMENTS			
start-up and shut-down	265.345		
MONITORING AND INSPECTIONS			
monitoring	265.347(a)		
daily inspections	265.347(b)		
CLOSURE			
residue removal	265.351		
SUBPART P - THERMAL TREATMENT			
APPLICABILITY			
thermal treatment in other than incinerators	265.370		

CHECKLIST IV B (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
GENERAL OPERATING REQUIREMENTS			
requirements	265.373		
WASTE ANALYSIS			
heating value	265.375(a)		
halogen and sulfur content	265.375(b)		
lead and mercury	265.375(c)		
MONITORING AND INSPECTIONS			
o/o requirements	265.377		
CLOSURE			
residue removal	265.381		
OPEN BURNING; WASTE EXPLOSIVES			
exceptions	265.382		
SUBPART Q - CHEMICAL, PHYSICAL, AND BIOLOGICAL TREATMENT			
APPLICABILITY			
treatment in other than tanks, surface impoundments & land treatment facilities	265.400		
GENERAL OPERATING REQUIREMENTS			
comply with 265.17(b)	265.401(a)		
wastes/reagents	265.401(b)		
continuous fed process	265.401(c)		
WASTE ANALYSIS AND TRIAL TESTS			
additional requirements	265.402		
INSPECTIONS			
o/o requirements	265.403		

CHECKLIST IV B (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
CLOSURE			
residue removal	265.404		
SPECIAL REQUIREMENTS FOR IGNITABLE OR REACTIVE WASTE			
placement requirements	265.405		
SPECIAL REQUIREMENTS FOR INCOMPATIBLE WASTES			
in same process	265.406(a)		
unwashed equipment	265.406(b)		
SUBPART R - UNDERGROUND INJECTION			
APPLICABILITY			
o/o exclusions	265.430(a)		
application criteria	265.430(b)		

CHECKLIST V

PERMITTING REQUIREMENTS

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
PART 270 - PERMIT PROGRAM			
SUBPART A - GENERAL INFORMATION			
PURPOSE AND SCOPE OF SUBPART B			
specific inclusions	270.1(c)(1)		
† specific exclusions	270.1(c)(2)		
† further exclusions	270.1(c)(3)		
† less than entire facility	270.1(c)(4)		
EFFECT OF A PERMIT			
compliance with permit	270.4(a)		
property rights/ privilege	270.4(b)		
NONCOMPLIANCE REPORTING BY THE DIRECTOR			
* quarterly reports	270.5(a)		
* annual reports	270.5(b)		
* schedules	270.5(c)		
SUBPART B - PERMIT APPLICATION			
APPLICATION FOR A PERMIT			
permit application	270.10(a)		
who applies/signs	270.10(b)		
* completeness	270.10(c)		
information requirements	270.10(d)		

† Optional requirement - see discussion on page A-2.
* Procedural requirement - see discussion on page A-1.

CHECKLIST V (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
existing HWM facilities	270.10(e)		
new HWM facilities	270.10(f)		
updating applications	270.10(g)		
reapplications	270.10(h)		
recordkeeping	270.10(i)		
SIGNATORIES TO PERMIT APPLICATIONS AND REPORTS			
applications	270.11(a)		
reports	270.11(b)		
changes to authorization	270.11(c)		
certification	270.11(d)		
CONFIDENTIALITY OF INFORMATION			
* denial of claim	270.12(b)		
CONTENTS OF PART A[1]			
latitude/longitude	270.13(b)		
name, address, telephone	270.13(e)		
new/existing	270.13(g)		
existing/locations	270.13(h)		
existing/photos	270.13(i)		
processes	270.13(j)		
wastes	270.13(k)		
CONTENTS OF PART B[1]			
general information requirements	270.14(b)		

* Procedural requirement - see discussion on page A-1.

[1] Contents of Application - see discussion on page A-2.

CHECKLIST V (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
additional information requirements	270.14(c)		
specific information requirements	270.15-21		

SUBPART C - PERMIT CONDITIONS

CONDITIONS APPLICABLE TO ALL PERMITS

duty to comply	270.30(a)		
duty to reapply	270.30(b)		
need to halt or reduce activity not a defense	270.30(c)		
duty to mitigate	270.30(d)		
proper O & M	270.30(e)		
permit actions	270.30(f)		
property rights	270.30(g)		
duty to provide information	270.30(h)		
inspection and entry	270.30(i)		
monitoring and records	270.30(j)		
signatory requirement	270.30(k)		
reporting requirements	270.30(l)		

REQUIREMENTS FOR RECORDING AND REPORTING OF MONITORING RESULTS

equipment/methods	270.31(a)		
monitoring	270.31(b)		
reporting	270.31(c)		

ESTABLISHING PERMIT CONDITIONS

* case by-case	270.32(a)		
* method of incorporation	270.32(b)		
* incorporation	270.32(e)		

* Procedural requirement - see discussion on Page A-1.

CHECKLIST V (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY		IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
		STATUTE	REGULATION	
SCHEDULES OF COMPLIANCE (Optional)†				
general	270.33(a)			
time for compliance	270.33(a)(1)			
interim dates	270.33(a)(2)			
reporting	270.33(a)(3)			
SUBPART D - CHANGES TO PERMITS				
TRANSFER OF PERMITS				
transfers by modification	270.40(a)			
MAJOR MODIFICATION OR REVOCATION AND REISSUANCE OF PERMITS				
causes for modification: alteration	270.41(a)(1)			
information	270.41(a)(2)			
new regulations	270.41(a)(3)			
compliance schedules	270.41(a)(4)			
others	270.41(a)(5)			
causes for modification or revocation and reissuance	270.41(b)			
facility siting	270.41(c)			
TERMINATION OF PERMITS				
causes	270.43(a)			
* termination procedures	270.43(b)			
SUBPART E - EXPIRATION AND CONTINUATION OF PERMITS				
DURATION OF PERMITS				
* maximum ten year term	270.50(a)			
* extension or modification	270.50(b)			
† less than full term	270.50(c)			

* Procedural requirement - see discussion on page A-1.

† Optional requirement - see discussion on page A-2.

CHECKLIST V (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY STATUTE REGULATION	IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
SUBPART F - SPECIAL FORMS OF PERMITS			
PERMITS BY RULE †			
ocean disposal	270.60(a)		
injection wells	270.60(b)		
POTWs	270.60(c)		
EMERGENCY PERMITS †			
conditions for issue	270.61		
HAZARDOUS WASTE INCINERATOR PERMITS †			
permit conditions	270.62		
PERMITS FOR LAND TREATMENT DEMONSTRATIONS USING FIELD TEST OR LABORATORY ANALYSES †			
requirements	270.63		
SUBPART G - INTERIM STATUS †			
INTERIM STATUS			
qualifying	270.70		
facility operation	270.71		
changes	270.72		
termination	270.73		
PART 124 - PROCEDURES FOR DECISIONMAKING			
SUBPART A - GENERAL PROGRAM REQUIRMENTS			
APPLICATION FOR A PERMIT			
requirements	124.3(a)		

† Optional requirement - see discussion on page A-2.

CHECKLIST V (continued)

FEDERAL REQUIREMENT	RCRA CITE	STATE AUTHORITY		IF DIFFERENT FROM FEDERAL REQUIREMENT, EXPLAIN
		STATUTE	REGULATION	
MODIFICATION, REVOCATION AND REISSUANCE OR TERMINATION OF PERMITS				
initiator	124.5(a)			
modify/revoke procedures	124.5(c)			
* termination procedures	124.5(d)			
DRAFT PERMITS				
* decision to prepare draft	124.6(a)			
* contents of draft permit	124.6(d)			
* fact sheet	124.6(e)			
FACT SHEET				
* criteria & recipients	124.8(a)			
* contents	124.8(b)			
PUBLIC NOTICE OF PERMIT ACTIONS AND PUBLIC COMMENT PERIOD				
* scope	124.10(a)(1)(ii),(iii),(iv)			
* timing	124.10(b)			
* methods	124.10(c)			
* contents	124.10(d)			
* additional notice	124.10(e)			
PUBLIC COMMENTS AND REQUESTS FOR PUBLIC HEARINGS				
procedures	124.11			
PUBLIC HEARINGS				
* criteria for holding	124.12(a)			
RESPONSE TO COMMENTS				
* response when final permit is issued	124.17(a)			
* availability to public	124.17(c)			

* Procedural requirement - see discussion on page A-1.

APPENDIX B

FINANCIAL RESPONSIBILITY

Introduction

The State program requirements must be "equal in effect" to the Federal requirements for financial assurance of closure and post-closure care, and the accompanying requirements for closure and post-closure cost estimates, promulgated at 47 FR 15047-74 (April 7, 1982), and liability coverage for third party claims, promulgated at 47 FR 16554-61 (April 16, 1982). EPA will exercise some flexibility in its review of State financial responsibility requirements. However, EPA's experience has been that financial responsibility requirements must be precise and detailed to achieve certainty and adequacy of funding for closure, post-closure care, and third party claims for personal injury and property damage.

A State may choose to implement more stringent financial requirements, or it may choose to eliminate optional requirements. In these cases EPA will review and reconcile the differences with the Federal standards. EPA will also allow States whose regulations governing financial institutions contravene the EPA forms for financial instruments to modify the EPA language of the instruments so long as the effect of the instruments is equivalent to that of the EPA-specified instruments.

Acceptable Surety Companies

The Federal regulations specify that the surety company issuing a bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury. However, several States specifically regulate and approve surety companies doing business in their States. EPA will allow those States to set their own qualification standards for sureties which issue bonds to owners and operators to meet the financial responsibility requirements.

Additional Mechanisms

States may utilize additional mechanisms which are equivalent to those specified in 264 and 265 Subpart H. The basic concerns for equivalence are the extent and security of coverage.

States may wish, for example, to consider two financial assurance mechanisms which EPA does not have authority to effect -- cash deposits and certificates of deposit. A State regulation using either of these two mechanisms may require an immediate payment in the full amount of the cost-estimate, or that payments be made over a pay-in period no longer than the EPA trust fund pay-in period. These requirements will ensure that the funds for closure and post-closure care will be readily obtained in event of default. However, while these financial instruments would meet the EPA requirements, they may not be feasible for owners and operators because of the large amounts of cash required.

States which choose to allow cash deposits or certificates of deposit must meet standards equivalent to those incorporated in the Federal standards for financial assurance mechanisms:

1. The bank or financial instutuion holding the cash deposit or certificate of deposit must be regulated and examined by a Federal or State agency. The cash deposit or certificate of deposit must be established at least 60 days before hazardous waste is first received at a new facility.

2. The State must be the beneficiary of the cash deposit or certificate of deposit. The State must be empowered to draw upon the funds if the owner or operator fails to perform closure or post-closure care in accordance with the applicable plans or interim status requirements.

3. The State must require that the owner or operator make an immediate deposit in the full amount of the cost estimate, or that payments be made purusant to a pay-in period that is no longer than the Federal trust pay-in periods for closure and post-closure care set forth in 40 CFR §§264.143(a) and 264.145(a); 265.143(a); and 265.145(a), respectively.

4. The State must require that the cash deposit or certificate of deposit cannot be terminated unless:

   (a) the financial institution provides advance notice, and

   (b) the State indicates that:

      (1) the owner or operator has performed closure/post-closure to the State's satisfaction, or
      (2) the owner or operator has established an alternate financial assurance mechanism in accordance with the State's regulations.

5. The State must require that the cash deposit or certificate of deposit cannot be cancelled: (1) while proceedings to enforce regulatory compliance are pending, and (2) in the event of transfer of ownership or operation of the facility, until the successor owner or operator has established his own financial assurance mechanism in accordance with the State's regulations.

Due to the precise nature of the financial responsibility requirements, and the various approaches taken by State programs, a guidance document titled Equivalency of State Financial Responsibility Mechanisms has been developed by EPA to help evaluate numerous financial mechanisms for equivalence. This document also discusses overall State program equivalence in the financial responsibility area. For further guidance in this area please refer to this document at the end of this Appendix.

EQUIVALENCY OF STATE FINANCIAL RESPONSIBLITY MECHANISMS

DRAFT DOCUMENT
FOR AGENCY REVIEW ONLY

Prepared by:
ICF Incorporated
September 1982

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EQUIVALENCY OF STATE FINANCIAL RESPONSIBILITY REQUIREMENTS

Introduction

In issuing financial responsibility standards under RCRA, the Agency determined that such requirements are (1) necessary to assure that funds will be available for proper closure of all hazardous waste management facilities, and for 30 years of post-closure care of land disposal facilities, and (2) desirable, in the case of liability coverage, to assure that funds will be available during the operating life of a facility from which third parties can be compensated for bodily injury and property damage arising from operation of the facility. These determinations are based on extensive analysis and review of public comments and consequently define the scope, purpose, and function of any state financial responsibility regulations under RCRA.

States seeking authorization to administer their hazardous waste programs in lieu of the federal RCRA program either have or will have financial requirements. States that are not seeking such authorization, however, may also enact financial responsibility requirements applicable to owners and operators of hazardous waste management facilities. In either instance, in reviewing state financial responsibility requirements, the key criterion is **equivalence** to the federal requirements.

The review of equivalency of financial responsibility requirements is necessarily somewhat more judgmental than is the case for other hazardous waste management standards. While the federal regulations (40 CFR Parts 264 and 265, Subpart H) serve as a benchmark, the use of more flexible criteria is essential for two reasons:

(1) States often have more restrictive or curtailed enabling statutes with respect to financial responsibility.that make it difficult to track the federal requirements; and

(2) Equivalency of outcome or performance of financial assurance is more important than equivalency of methods.

The concept of equivalency originates in Section 3006 of RCRA. That section provides for the authorization of state hazardous waste programs that are equivalent to the federal program. It also provides for the interim authorization of existing state programs that are "substantially equivalent" to the federal program. The concept of equivalence also appears in the Agency's financial responsibility regulations at 40 CFR 264/265.149 and 264/265.150. Those regulations permit owners or operators to use state-required mechanisms for financial responsibility or state assumptions of responsibility to meet federal requirements, in whole or part, if the state-required mechanisms are equivalent to the federal provisions. Thus equivalence evaluations may be performed in two contexts: (1) as part of the review of state financial regulations for interim or final program authorization or (2) as part of the review of an owner's or operator's compliance with federal requirements in states without authorization that have financial requirements.[1]

Therefore, this guidance has a dual purpose. It addresses:

(1) determining equivalence of a state's regulatory scheme for financial responsibility in the RCRA program authorization context, and

(2) determining equivalence of individual mechanisms in the 264.149/150 and 265.149/150 context for the owner or operator who must comply with both federal and state requirements.

These two topics are addressed next in more detail.

Equivalence for Purposes of State Program Authorization

Pursuant to RCRA §3006(b), for a state program to receive final authorization, it must (1) be "equivalent" to the Federal program, (2) be consistent with the Federal program and the programs of other authorized states, and (3) provide adequate enforcement. EPA has interpreted the term "equivalent" to mean "equal in effect." (See 45 Fed. Reg. 6753; January 29, 1980). Moreover, pursuant to RCRA §3009, states may impose "any requirements ... which are more stringent than those imposed" by the Federal regulations, but may not impose any requirements less stringent than the Federal requirements. In the context of financial responsibility, EPA will make judgments of the legal efficacy of the various financial mechanisms in a state's program which owners and operators may use to demonstrate compliance; the Agency intends that, for a state program to receive final authorization, the program include requirements no less than "equal in effect" to the Federal requirements for financial assurance of closure and post-closure care, and the accompanying requirements for closure and post-closure cost estimates, promulgated at 47 Fed. Reg. 15047-74 (April 7, 1982), and liability coverage for third party claims, promulgated at 47 Fed. Reg. 16554-61 (April 16, 1982).

Pursuant to RCRA §3006(c), for a state program to receive interim authorization, it must be found to be "substantially equivalent" to the Federal program. The Agency has interpreted substantial equivalence to mean "to a large degree or in the main, equal in effect." (See 45 Fed. Reg. 6754; January 29, 1980). Moreover, RCRA §3009 was clearly not intended to mandate application of a "no less stringent" standard to a state seeking only interim authorization. (See 45 Fed. Reg. 33391; May 19, 1980). Thus it is possible that EPA could grant interim authorization to a state program where the financial mechanisms allowed under the program were less than "equal in effect" to the April 1982 Federal regulations cited above.

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[1] For facilities in states without RCRA authorization but with financial responsibility requirements applicable to hazardous waste management facilities, owners or operators must comply with both federal and state regulations.

For both interim and final authorization, a state financial responsibility regulatory program should contain the following components:

(1) regulations concerning cost estimates for closure and post-closure care, and

(2) regulations describing allowable mechanisms and the conditions of their use (e.g., combinations of mechanisms, eligibility of insurers, incapacity of institutions).

Below, equivalence criteria for cost estimate regulations are set forth. Later in this document, specific equivalence criteria for individual state financial mechanisms are provided. These criteria are all based on the benchmarks provided by Subpart H of 40 CFR Parts 264 and 265.

Where the types of allowable mechanisms or their specific provisions (e.g., financial test criteria) are not defined by state statute, the state regulations must define the specifics of each allowable mechanism in order that EPA can make a determination of equivalence. Also, where a state program allows types of financial responsibility mechanisms that are not allowed by the federal program, the equivalence criteria included in this document should be consulted. The Agency expects that several states will seek to allow mechanisms such as escrows, cash deposits, and certificates of deposit which are not allowed in the federal program. (For an explanation of why these mechanisms haven't been provided in the federal program, see the Preamble at 46 Fed. Reg. 2827 (January 12, 1981).)

Equivalence of State-Required Mechanisms Used to Comply with the Federal Regulations

When an owner or operator wishes to use a state-required mechanism or a state assumption of responsibility to comply with federal requirements, the determination of equivalence is the responsibility of the EPA Regional Administrator. This situation will only occur in states that do not have authorization but do have state-required financial mechanisms or state assumptions of responsibility. In these situations, equivalence should be determined using the criteria discussed below both for cost estimates and for the specific assurance mechanism being used for compliance. These criteria are based on the benchmarks provided by Subpart H of 40 CFR Parts 264 and 265.

In addition to evaluating the equivalency of the mechanism, the Regional Administrator may only approve use of a state-required mechanism if the instrument has been executed. To do otherwise would result in a gap in coverage which must be avoided. This is in contrast to the program authorization context where financial responsibility requirements may be determined to be equivalent or substantially equivalent prior to the effective date of the requirements, although a State program may not be granted authorization until the State's regulations are effective.

Fundamental Criteria for Equivalence Determinations

Inherent in the federal financial assurance regulations are two criteria which are fundamental for evaluating equivalence:

(1) **Certainty** of the availability of funds through a financial mechanism must be at least equivalent, and

(2) **The amount** of funds assured by a financial mechanism must be at least equivalent.

These criteria reflect the Agency's policy that the funds must be available in the appropriate amounts when needed. The criteria are equally applicable when evaluating equivalence in the program authorization context and in the federal/state compliance context. The first criterion is more difficult to evaluate than the second. Of key importance for **certainty** will be the protection of the funds against claims of creditors, the initial qualifications of financial institutions providing the mechanisms, and provisions required for future contingencies, including bankruptcy, cancellation, or changing mechanisms. With respect to **amount** of financial assurance, both the total amount of funds assured as well as the amount assured at different points in time are crucial. These criteria are outlined next as thresholds that must be satisfied in addition to criteria appropriate for specific types of mechanisms which are provided later.

Certainty of Availability of the Funds. To be deemed equivalent in terms of certainty, state financial requirements must include minimal qualifications for the parties to mechanisms of financial responsibility and other provisions, as follows:

(1) provision that Regional Administrator or State Director[2] has the sole authority to direct the payment or use of funds assured whenever needed;

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[2] The phrase "Regional Administrator or State Director" is used in this document because most state mechanisms are expected to name a state agency as beneficiary. Due to the variety in state agencies and their authorities, the specific "State Director" may vary from state to state (e.g., Attorney General, Director of Office of Environmental Protection, Public Health Commissioner, State Treasury Department, etc.) The term "State Director" is defined in 40 CFR 122.3. As long as a state agency or official (or the EPA Regional Administrator) is designated as having the power to direct or authorize use of financial assurance, the mechanism should be deemed equivalent, in that respect. However, where two or more state agencies are responsible for administration of financial assurance mechanisms, the "lead" agency should consider establishing an inter-agency memorandum of understanding to clearly delineate the respective roles and responsibilities of each agency.

(2) qualifications for participating financial institutions, surety companies, and insurers -- these institutions and their relevant activities (i.e., trust fund operations) must be subject to some regulatory oversight or licensing procedures

(3) qualifications for guarantors -- including satisfaction of a financial test and being the corporate parent of the owner or operator

(4) qualifications for owners or operators using a financial test -- including independently audited financial statements

(5) substitution of alternate financial assurance within a defined time period in the event the required qualifications are no longer satisfied (for example, including the bankruptcy of the financial institution, corporate guarantor, or insurer);

(6) notification within a limited time period after the commencement of a bankruptcy proceeding naming the owner or operator as debtor;

(7) notification within a limited time period of intent to cancel, terminate, or allow to lapse a financial assurance mechanism;

(8) provision that an existing mechanism will not be cancelled, terminated, or allowed to lapse until a defined time period has elapsed, or alternate assurance has been provided, or the owner or operator has been released from financial requirements;

(9) provision that the mechanisms cannot be cancelled or terminated upon commencement of a compliance action; and

(10) no restrictions on order of use of mechanisms if more than one mechanism provides assurance for a given facility.

These provisions are further specified in the equivalency criteria for specific financial responsibility mechanisms.

Amount of Funds. In general, the amount of funds assured for closure and/or post-closure care must be equal to the current cost estimate(s) and the liability coverage demonstrated must be at least equal to the amounts required by RCRA liability requirements, exclusive of legal defense costs. An exception can be made for owners and operators using trust funds for closure/post-closure assurance; the full amount need not be available if the owner or operator is in the pay-in period for the trust fund. (See, e.g., 264/265.143(a)(3).) In that case, an increasing amount will be assured each year. For all other mechanisms alone or in combination, the amounts assured must always meet the total RCRA requirements at all times.

Thus, with respect to the amount of funds assured, the following criteria must be met:

(1) The amount assured must equal the latest cost estimate for closure and/or post-closure care in full, unless the trust fund mechanism is being used.

(2) If a trust fund is used, the initial and subsequent payments must assure an amount of closure and/or post-closure funds each year that in the aggregate is no less than that required by the federal formula.

(3) If a trust fund pay-in period is used, it must not be longer than that allowed under the federal regulations.

(4) The amounts of funds assured for different identified facilities and purposes (i.e., closure, post-closure care, liability) must be specifically identified in the instrument or by an attachment to the instrument.

(5) The Regional Administrator or State Director must have exclusive authority over disbursements of funds.

(6) The funds cannot be used for other purposes (e.g., payment of fines).

(7) The Regional Administrator or State Director must approve in writing any decreases in the amounts of assurance provided.

(8) The Regional Administrator or State Director must have the authority to withhold a portion of the reimbursement for closure expenses if deemed necessary.

The federal regulations allow owners or operators to use combinations of mechanisms to provide the required amount of assurance. States can do likewise. So long as each mechanism is equivalent in terms of certainty of the funds, the focus is properly on the total amount assured by the mechanisms. See 40 CFR 264/265.143(g).

Time Limits. Time limits in state financial mechanisms may not always parallel the federal requirements. This does not necessarily mean that the state mechanisms are not equivalent. However, the federal regulations are based on considerations of the legal and practical implications of deadlines that cannot be ignored by state mechanisms. The ultimate aim must be to ensure that there is no gap in financial coverage. This means that sufficient time must be allowed for:

- providing an alternate mechanism in the event of the incapacity, disqualification, or bankruptcy of issuers, insurers, and guarantors (e.g., 60 days).
- responding to a notice of cancellation or termination (e.g., at least 30-60 days)
- alternate assurance of funds before a cancellation could become effective (e.g., at least 60-90 days)
- notifying the Regional Administrator or State Director of the commencement of a bankruptcy proceeding naming the owner or operator as debtor (e.g., no more than 10 days but probably no less)
- review by the Regional Administrator or State Director of financial assurance submissions for new facilities (e.g., at least 10-15 days before first receipt of wastes)

States should be encouraged to follow the deadlines in federal system but some flexibility may be allowed when determining equivalence. The period of post-closure care, however, must be at least thirty years.

Allowable Mechanisms. Current federal regulations allow use of trust funds, surety bonds, letters of credit, insurance, a financial test, corporate guarantees, and state assumptions of responsibility. Some states may allow owners or operators to demonstrate financial responsibility using mechanisms not currently allowed under RCRA standards. Specifically, these might include:

- cash deposits
- certificates of deposit
- escrow accounts

The equivalency of cash deposits or certificates of deposit can be assessed using the federal trust fund requirements as a touchstone. Thus, pay-in periods, payment formulae, and rules for reimbursement of expenses must be at least as stringent as under the federal regulations. Where state regulations require immediate deposit of the full amount, the focus should shift to whether further payments are required to keep pace with later increases in cost estimates. Equivalency criteria for cash deposits and certificates of deposit are presented later in this document.

An escrow is similar to a trust arrangement but it has a somewhat different legal effect. Although the depositary institution is not a trustee, it is a fiduciary (as is a trustee) and its actions are governed by an escrow agreement that should resemble the trust agreement. The key terms and responsibilities must be spelled out in the agreement; an escrow agent has no discretion and must follow the instructions of the escrow agreement to the letter. Equivalency criteria for escrows are presented later in this document.

Cost Estimates. To be equivalent to federal requirements, state financial responsibility programs and mechanisms must incorporate equivalent rules for estimating the costs of closure and post-closure care that are to be assured. The evaluation of equivalency will depend on affirmative answers to the following questions:

(1) Must cost estimates for closure and post-closure be based on closure and post-closure plans?

(2) Must cost estimates be revised accordingly whenever changes in closure or post-closure plans would increase cost estimates?

(3) Must the closure cost estimate equal the cost of closure at the point in the facility's operating life when closure would be the most expensive?

(4) Must the cost estimates be adjusted for inflation at least annually during the operating life of the facility using a specified inflation factor?

(5) Must the latest cost estimate based on the closure and/or post-closure plan(s) and the latest adjusted cost estimate(s) be kept at the facility?

The rest of this document sets forth a series of criteria for determining the equivalency of individual state financial assurance mechanisms. Closure or post-closure mechanisms allowed by the federal regulations are addressed first, followed by mechanisms not allowed in the current federal regulations, concluding with liability coverage mechanisms and state assumptions of responsibility.

Further Information

Readers desiring further information should consult the **Guidance Manuals on Financial Assurance for Closure and Post-Closure Care** and **Liability Coverage** and the Background Documents cited there.

EQUIVALENCY CRITERIA FOR STATE TRUST FUNDS

EPA will consider the following factors in determining whether a state-required trust fund is "equivalent" or "substantially equivalent" to the financial mechanisms prescribed in the federal regulations. As a general rule, most, if not all of the following questions must be answered "yes" for the state-required trust fund to be considered "equivalent" or "substantially equivalent."

1. Is the trustee required to be an entity that has authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency?

2. Does the trust agreement or an attached schedule list and identify the facilities and the amount of the closure and/or post-closure cost estimates covered for each facility?

3. Is the owner or operator required to update the list of facilities and closure and/or post-closure cost estimates after each change in cost estimates?

4. Does the owner or operator remain liable at all times for the full amount of closure and/or post-closure expenses?

5. Is the trust irrevocable except upon agreement of the owner or operator, the trustee, and the Regional Administrator or State Director?

6. Does the trust agreement prohibit trustees from investing in securities of the owner or operator or parent corporations or their affiliates? (federal regulations include this prohibition in addition to the general "prudent man" standard. See 40 CFR 264.151(a)(1).)

7. For new facilities to be permitted, must the trust agreement be submitted to the Regional Administrator or State Director before hazardous waste is first received?

8. Must the initial payment be made before hazardous waste is first received for new permitted facilities?

9. For new permitted facilities, must a receipt from the trustee for the first payment be submitted to the Regional Administrator or State Director before hazardous waste is first received at the facility?

10. Are the required initial and annual payments at least as great as those required by the federal RCRA regulations? (covers pay-in period or other formulae)*

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* For details on the pay-in period and payment formula, see Chapter III in the Guidance Manual: Financial Assurance for Closure and Post-Closure Care (1982).

11. Does the trust agreement require the trustee, during the pay-in period, to notify the Regional Administrator or State Director if the owner or operator fails to make an annual payment into the trust fund?

12. Does the trust agreement require the trustee to value the assets in the trust fund each year and send a statement of valuation and trust activity to the owner or operator and the Regional Administrator or State Director?

13. Is the owner or operator given at least 90 days following the trustee's valuation report to object to the trust investment activity?

14. May EPA or State Director object at any time to the trust investment activity?

15. Once the pay-in period has expired, must the owner or operator make additional payments into the trust fund or obtain alternate assurance whenever the cost estimate changes and becomes greater than the value of the trust fund during the operating life of the facility?

16. Must the owner or operator make arrangements for a new trustee or obtain other financial assurance when the existing trustee enters bankruptcy, ceases operations, or loses its authority to act as a trustee?

17. Can the trustee only be changed upon agreement by the owner or operator, the trustee, and the Regional Administrator or State Director?

18. Can funds be released from the trust fund only upon instruction of the Regional Administrator or State Director and only for the following reasons: (1) the value of the trust fund is greater than the current cost estimate(s); (2) alternate financial assurance is provided; (3) the owner or operator is released from financial responsibility requirements.

19. Must itemized bills for closure and/or post-closure care be submitted to the Regional Administrator or State Director before reimbursement will be authorized?

20. Where the cost of closure appears to be significantly greater than the value of the trust fund, is the Regional Administrator or State Director empowered to withhold reimbursement from the trust until satisfactory certification of completion of closure is received?

21. May the trust be terminated only upon written instruction of the Regional Administrator or State Director?

EQUIVALENCY CRITERIA FOR SURETY BONDS

EPA will consider the following factors in determining whether a state-required surety bond is "equivalent" or "substantially equivalent" to the financial mechanisms prescribed in the federal regulations. As a general rule, most, if not all of the following questions must be answered "yes" for the state-required surety bond to be considered "equivalent" or "substantially equivalent."

1. Is the surety company required to be listed in Circular 570 or licensed to do business as a surety in the state?

2. Does the underwriting limitation in Circular 570 apply?

3. Must the surety company be licensed in the state where the surety bond is signed?

4. Are the terms of a required standby trust fund (if any) at least equivalent to a standby trust fund under the federal RCRA regulations? (see, e.g., 40 CFR 264.143(b)(3) and the equivalency criteria for standby trust funds, below.)

5. Must the penal sum of the bond, together with any amount being assured by other mechanisms be at least equal to the current closure and/or post-closure cost estimates?

6. Must any surety bond that is used at an interim status facility be a financial guarantee bond? (performance bonds may not be used under 40 CFR 265 regulations.)

7. For new facilities to be permitted, must the surety bond be submitted to the Regional Administrator or State Director before hazardous waste is first received for treatment, storage or disposal?

8. For new permitted facilities, must the surety bond be effective before hazardous waste is first received for treatment, storage or disposal?

9. When cost estimates increase, must the penal sum of the bond be increased (and evidence of the increase submitted to the Regional Administrator or State Director) or alternate financial assurance obtained within a defined period of time? (federal regulations allow 60 days)

10. Can the penal sum be reduced only if cost estimates decrease and following written approval of the Regional Administrator or State Director?

11. Must the owner or operator obtain alternative financial assurance within a defined time period after bankruptcy of the surety or removal of the surety's name from Circular 570?

12. Must the surety give both the owner or operator and the Regional Administrator or State Director ample notice before cancellation of the surety bond will be allowed? (federal regulations require at least 120 days)

13. Will the owner or operator have sufficient time after receipt of notice of cancellation to provide alternative financial assurance and obtain written approval of the new assurance from the Regional Administrator or State Director? (federal regulations require at least 90 days)

14. Is the surety required to pay the penal sum of a financial guarantee bond in at least these circumstances:

a. The owner or operator has failed to provide funds in the amount of the cost estimate for closure and/or post-closure care before the beginning of final closure of the facility;

b. The Regional Administrator, State Director, or a court has ordered closure to begin and the owner or operator has not provided funds within 15 days; or

c. The surety has sent notice of cancellation of the bond and the owner or operator has not obtained alternate financial assurance within a defined time period? (federal regulations allow 90 days)

15. Must the surety perform closure and/or post-closure care or pay the penal sum of a performance bond in at least the following circumstances:

a. The owner or operator fails to fulfill its closure and/or post-closure obligations, even though closure may occur sooner than expected or the requirements in the plans, regulations, and/or permit have changed; or

b. The surety has sent notice of cancellation of the bond and the owner or operator has not obtained alternate financial assurance within 90 days?

16. May a surety bond only be terminated with the written consent of the Regional Administrator or State Director?

17. Must itemized bills for closure and/or post-closure care be submitted to the Regional Administrator or State Director before payment will be authorized?

18. Where the cost of closure appears to be significantly greater than the amount of available funds, is the Regional Administrator or State Director empowered to withhold reimbursement until satisfactory certification of completion of closure is received?

EQUIVALENCY CRITERIA FOR LETTERS OF CREDIT

EPA will consider the following factors in determining whether a state-required letter of credit is "equivalent" or "substantially equivalent" to the financial mechanisms prescribed in the federal regulations. As a general rule, most, if not all of the following questions must be answered "yes" for the state-required letter of credit to be considered "equivalent" or "substantially equivalent."

1. Is the issuer required to be authorized to issue letters of credit, and must its letter of credit operations be regulated by a state or federal agency?

2. Are the terms of a required standby trust fund (if any) at least equivalent to the required standby trust fund under the federal RCRA regulations? (see, e.g., 40 CFR 264.143(d)(3) and the equivalency criteria for standby trust funds, below.)

3. Must the letter of credit be irrevocable for at least a year and provide for automatic extensions?

4. Does the letter of credit have to be accompanied by a letter or schedule detailing the coverage for each facility?

5. Must the owner or operator submit evidence within a reasonable period that any cost increases are covered by alternate mechanisms or increases in the face amount of the letter of credit? (federal regulations allow up to 60 days.)

6. Must owners or operators obtain alternate financial assurance within a specified time if the issuing institution ceases operations, files for bankruptcy, or otherwise ceases to qualify? (federal regulations allow up to 60 days.)

7. Must alternate assurance be obtained within a specified time if the issuer gives notice of nonrenewal of the letter? (federal regulations allow up to 90 days.)

8. Must the face amount of the letter of credit, together with any amount being assured by other mechanisms be at least equal to the current closure and post-closure cost estimates?

9. Must the letter of credit be submitted to the Regional Administrator or State Director by a specified time before hazardous waste is first received for new permitted facilities? (federal regulations require at least 60 days.)

10. For new facilities to be permitted, must the letter of credit be effective before hazardous waste is first received for treatment, storage or disposal?

11. Can the amount be reduced only if cost estimates decrease and following written approval of the Regional Administrator or State Director?

12. Must itemized bills for closure and/or post-closure care be submitted to the Regional Administrator or State Director before reimbursement will be authorized?

13. Where the cost of closure appears to be significantly greater than the amount of funds available under the letter of credit, is the Regional Administrator or State Director empowered to withhold reimbursement until satisfactory certification of completion of closure is received?

14. Is termination of the letter of credit only allowed if (1) alternate assurance is provided, or (2) the owner or operator has been released from closure or post-closure financial requirements?

EQUIVALENCY CRITERIA FOR STANDBY TRUST FUNDS

There is an important difference between state and federal legal authorities which may affect state mechanisms. Because the U.S. EPA does not have the authority to collect, hold or disburse financial assurance funds itself, the RCRA regulations require the use of a standby trust fund in conjunction with surety bonds and letters of credit. Some states, on the other hand, may not have this restriction, thus they may not need to require standby trust funds. The lack of standby trust provisions does not necessarily mean that the state mechanism is not equivalent. If the state does require standby trusts, they must meet the equivalency criteria set out below.

EPA will consider the following factors in determining whether a state-required standby trust fund is "equivalent" or "substantially equivalent" to the financial mechanisms prescribed in the federal regulations. As a general rule, most, if not all of the following questions must be answered "yes" for the state-required standby trust fund to be considered "equivalent" or "substantially equivalent."

1. Is the trustee required to be an entity that has authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency?

2. Does the trust agreement or an attached schedule list the facilities and the amount of the closure and/or post-closure cost estimates covered for each facility?

3. Is the trust irrevocable except upon agreement of the owner or operator, the trustee, and the Regional Administrator or State Director?

4. Does the trust agreement prohibit trustees from investing in securities of the owner or operator or parent corporations? (federal regulations include this prohibition in addition to the general "prudent man" standard.)

5. If closure is not performed, does the trust have to be funded by the letter of credit, surety bond, or other mechanisms (a) before final closure or (b) within a specified period after the Regional Administrator, State Director, or a court orders closure? (federal regulations allow 15 days.)

6. For new facilities to be permitted, must the trust agreement be submitted to the Regional Administrator or State Director before hazardous waste is first received for treatment, storage or disposal?

7. Is the owner or operator given at least 90 days to object to the trust investment activity?

8. May EPA or State Director object at any time to the trust investment activity?

9. Must the owner or operator make arrangements for a new trustee or obtain other financial assurance when the existing trustee enters bankruptcy, ceases operations, or loses its authority to act as a trustee?

10. Can the trustee only be changed upon agreement by the owner or operator, the trustee, and the Regional Administrator or State Director?

11. Where the cost of closure appears to be significantly greater than the amount of funds in the trust, is the Regional Administrator or State Director authorized to withhold reimbursement until satisfactory certification of completion of closure is received?

12. Must itemized bills for closure and/or post-closure care be submitted to the Regional Administrator or State Director before payment will be authorized?

EQUIVALENCY CRITERIA FOR CLOSURE OR POST-CLOSURE INSURANCE

EPA will consider the following factors in determining whether state-required closure or post-closure insurance is "equivalent" or "substantially equivalent" to the financial mechanisms prescribed in the federal regulations. As a general rule, most, if not all of the following questions must be answered "yes" for the state-required closure or post-closure insurance to be considered "equivalent" or "substantially equivalent."

1. Is the insurer required to be licensed to transact the business of insurance or eligible as a provider of excess or surplus lines insurance in one or more states?

2. Must the insurance certificate, policy, or endorsement list the facilities covered and the amounts of insurance for closure and/or post-closure care assured for each facility?

3. Must an insurance certificate or endorsement be submitted as evidence of insurance?

4. Does the insurance policy provide that closure and/or post-closure funds will be provided whenever closure occurs?

5. Does the insurance policy, certificate, or endorsement provide that the insurer will be responsible for paying out funds to parties specified upon the direction of the Regional Administrator or State Director?

6. For new facilities to be permitted, must the insurance policy, certificate, or endorsement be submitted to the Regional Administrator or State Director before hazardous waste is first received for treatment, storage or disposal?

7. For new facilities to be permitted, must the insurance policy be effective before hazardous waste is first received?

8. Must the face amount of the policy, together with any amount being assured by other mechanisms, be at least equal to the current closure and/or post-closure cost estimates?

9. Must the insurance policy provide for automatic renewal at least at the face amount of the expiring policy?

10. When cost estimates increase, must the face amount of the policy be increased accordingly (and evidence of the increase submitted to the Regional Administrator or State Director) or alternate assurance obtained within a defined time period? (federal regulations allow 60 days)

11. Can the face amount only be reduced when cost estimates decrease and following written approval of the Regional Administrator or State Director?

12. Must the owner or operator obtain alternative financial assurance within a defined time period following disqualification or liquidation of the insurer?

13. Must the insurer give both the owner or operator and the Regional Administrator or State Director sufficient notice before cancellation of the insurance policy will be allowed? (federal regulations require at least 120 days notice)

14. Must cancellation, termination, or failure to renew not occur and the policy remain in full force and effect in the event that on or before the date of expiration at least one of the following has occurred: (1) the Regional Administrator or State Director has deemed the facility abandoned; or (2) the permit is removed or terminated or a new permit is denied; or (3) closure is ordered by a competent authority (court, Regional Administrator, or State Director); or (4) the premium overdue is paid?

15. Must itemized bills for closure and/or post-closure care be submitted to the Regional Administrator or State Director before reimbursement will be authorized?

16. Where the cost of closure appears to be significantly greater than the face amount of the policy, is the Regional Administrator or State Director authorized to withhold reimbursement until satisfactory certification of completion of closure is received?

EQUIVALENCY CRITERIA FOR FINANCIAL TEST AND CORPORATE GUARANTEE FOR CLOSURE AND POST-CLOSURE CARE

EPA will consider the following factors in determining whether a state-required financial test or corporate guarantee is "equivalent" or "substantially equivalent" to the financial mechanisms prescribed in the federal regulations. As a general rule, most, if not all of the following questions must be answered "yes" for the state-required financial test or corporate guarantee to be considered "equivalent" or "substantially equivalent."

1. Are the owner's, operator's or corporate parent's financial statements required to be independently audited?

2. Does the independent public accountant have to be certified by a State Board of Accountancy or otherwise eligible to practice public accounting in the state?

3. Are the state's financial test criteria at least as stringent as the federal criteria? Specifically:

   A. Do bond ratings of the firm have to be at least investment grade; or does net working capital have to be six times the sum of closure and post-closure cost estimates, and do two of the following three conditions have to be satisfied:

      i) total liabilities to net worth have to be less than 2.0,

      ii) net income plus non-cash expenses (i.e., depreciation, depletion, and amortization) to total liabilities have to be greater than 0.1, or

      iii) current assets to current liabilities greater than 1.5?

   B. Does the tangible net worth of the firm have to be at least $10 million and at least six times the sum of closure and post-closure estimates?

   C. Do assets in the United States amount to

      i) 90 percent of the total assets, or

      ii) six times the sum of closure and post-closure estimates?

4. Are firms whose financial statements receive an adverse opinion or a disclaimer of opinion in auditor's standard report disallowed from the financial test?

5. Is the Regional Administrator or State Director granted discretion to accept or reject qualified opinions on a firm's financial statements?

6. Must the corporate parent own at least 50 percent of the voting stock of the subsidiary owner or operator?

7. Must the financial test criteria be applied to the closure or post-closure cost estimates of all facilities for which there is no third party guarantee or funding of financial assurance? (federal regulations require the inclusion of facilities covered by the financial test guarantee, the corporate guarantee, facilities covered by state financial tests or corporate guarantees, and sites for which no financial assurance has been demonstrated.)

8. Must the owner, operator, or corporate parent continue to satisfy the test requirements, or supply alternate assurance, if closure or post-closure cost estimates increase?

9. Must the owner, operator, or corporate parent submit updated information a short time after the close of the firm's fiscal year? (federal regulations allow up to 90 days -- see 40 CFR 264.143(f)(5).)

10. If the financial statements indicate the firm no longer qualifies to use the financial test, must the owner or operator:

a) Notify the Regional Administrator or State Director within a specified period? (federal regulations allow no more than 90 days after the close of the fiscal year), and

b) Provide alternate financial assurance shortly thereafter? (federal regulations allow up to 120 days after close of the fiscal year).

11. Does the Regional Administrator or State counterpart have the authority to request additional financial reports from the owner, operator, or corporate parent, and disqualify the firm at any time on the basis of such reports or other information?

12. Must satisfaction of the financial test criteria be demonstrated at a specified period before wastes are received at a new facility? (federal regulations require at least 60 days for new permitted facilities -- see 40 CFR 264.143(f)(4).)

13. Is the parent guarantor held responsible for the closure or post-closure costs until:

a. The owner or operator has been released from the financial assurance requirements, or

b. The owner or operator has obtained alternate assurance within a specified period after notice of cancellation of the guarantee has been received? (federal regulations require no more than 90 days.)

EQUIVALENCY CRITERIA FOR CASH DEPOSITS AND CERTIFICATES OF DEPOSIT

EPA will consider the following factors in determining whether a state-required cash deposit or certificate of deposit is "equivalent" or "substantially equivalent" to the financial mechanisms prescribed in the federal regulations. As a general rule, most, if not all of the following questions must be answered "yes" for the state-required cash deposit or certificate of deposit to be considered "equivalent" or "substantially equivalent."

1. Must the bank or financial institution holding the cash deposit or certificate of deposit be regulated and examined by a federal or state agency?

2. Must the Regional Administrator or State Director be the beneficiary and be empowered to draw upon or direct payment from the funds if the owner or operator fails to perform closure or post-closure care?

3. For new facilities to be permitted, must the cash deposit or certificate of deposit be established before hazardous waste is first received for treatment, storage or disposal?

4. Must payments be made pursuant to a pay-in period and formula at least equivalent to federal RCRA trust fund requirements?

5. Must advance notice be provided to the Regional Administrator or State Director in a defined time period prior to termination by the owner or operator?

6. Must at least one of the following conditions be met for the cash deposit or certificate of deposit to be terminated: (1) the owner or operator has performed closure/post-closure to the State Director's or Regional Administrator's satisfaction, or (2) alternate assurance has been established (a) in accordance with state regulations or (b) that would be acceptable under 40 CFR 264/265.149?

7. Can funds be released only upon written instruction of the Regional Administrator or State Director?

8. Must itemized bills for closure and/or post-closure care be submitted to the Regional Administrator or State Director before payment will be authorized?

9. Where the cost of closure appears significantly greater than the amount of available funds, is the Regional Administrator or State Director empowered to withhold reimbursement until satisfactory certification of closure is received?

EQUIVALENCY CRITERIA FOR ESCROWS

EPA will consider the following factors in determining whether a state-required escrow is "equivalent" or "substantially equivalent" to the financial mechanisms prescribed in the federal regulations. As a general rule, most, if not all of the following questions must be answered "yes" for the state-required escrow to be considered "equivalent" or "substantially equivalent."

1. Is the depositary institution licensed or authorized to act as a fiduciary or escrow agent and subject to state or federal regulatory oversight?

2. Does the escrow agreement or an attached schedule list the facilities and the amount of the closure and/or post-closure cost estimates covered for each facility?

3. Is the owner or operator required to update the list of facilities and closure and/or post-closure cost estimates after each change in cost estimates?

4. Does the owner or operator remain liable at all times for the full amount of closure and/or post-closure expenses?

5. Does the escrow agreement prohibit the depositary from investing in securities of the owner or operator or parent corporations?

6. Is the escrow agreement irrevocable except upon the mutual consent of the owner or operator and the Regional Administrator or State Director?

7. For new facilities to be permitted, must the escrow agreement be submitted to the Regional Administrator or State Director before hazardous waste is first received for treatment, storage or disposal?

8. Must the initial payment be made before hazardous waste is first received for new permitted facilities?

9. Are the required initial and annual payments at least as great as those required by the federal RCRA trust fund regulations?

10. Does the escrow agreement require the depositary to notify the Regional Administrator or State Director if the owner or operator fails to make a required deposit?

11. Does the escrow agreement require the depositary to value the assets in the escrow each year and send a statement of valuation to the owner or operator and the Regional Administrator or State Director?

12. May the owner or operator and the Regional Administrator or State Director object at any time to escrow activity?

13. If the pay-in period is less than the operating life of the facility, must the owner or operator make additional payments to the escrow or obtain alternate assurance whenever the cost estimate(s) become(s) greater than the value of the escrow?

14. Must the owner or operator make arrangements for a new depositary or obtain other financial assurance when the existing depositary enters bankruptcy, ceases operations, or loses its authority to act as an escrow agent?

15. Can the depositary only be changed by mutual agreement of the owner or operator and the Regional Administrator or State Director?

16. Can funds be released from escrow only upon instruction of the Regional Administrator or State Director?

17. Must itemized bills for closure and/or post-closure care be submitted to the Regional Administrator or State Director before payment will be authorized?

18. Where the cost of closure appears significantly greater than the value of the escrow, is the Regional Administrator or State Director empowered to withhold reimbursement from the escrow until satisfactory certification of closure is received?

19. May the escrow agreement be terminated only upon instruction of the Regional Administrator or State Director?

EQUIVALENCY CRITERIA FOR LIABILITY INSURANCE

EPA will consider the following factors in determining whether state-required liability insurance is "equivalent" or "substantially equivalent" to the financial mechanisms prescribed in the federal regulations. As a general rule, most, if not all of the following questions must be answered "yes" for the state-required liability insurance to be considered "equivalent" or "substantially equivalent."

1. Is the insurer required to be licensed to transact the business of insurance or eligible as a provider of excess or surplus lines insurance in one or more states?

2. Must the insurance certificate, policy, or endorsement list the facilities covered?

3. Must an insurance certificate or endorsement be submitted as evidence of insurance?

4. Must the policy cover both bodily injury and property damage claims?

5. Must the policy provide -- exclusive of legal defense costs -- at least: (1) $1 million coverage per occurrence, with an annual aggregate amount of $2 million, for sudden accidental occurrences?; and (2) $3 million coverage per occurrence, with an annual aggregate amount of $6 million, for nonsudden accidental occurrences? (the nonsudden accidental coverage must be required of surface impoundments, landfills, and land treatment facilities.)

6. Must the coverage be on a "first dollar" basis?*

7. For sudden accidental occurrences, must the insurance policy be effective before initial receipt of waste at a new permitted facility?

8. For nonsudden accidental occurrences, must coverage be demonstrated by the following dates depending on the sales or revenues of the owner or operator?

(a)	Sales or revenues over $10 million	January 15, 1983
(b)	Sales or revenues greater than $5 million and up to $10 million	January 15, 1984
(c)	Sales or revenues $5 million and less	January 15, 1985

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* For details, see Chapter 2 of the **Guidance Manual: Liability Coverage** (1982).

9. Must the owner or operator maintain the policy in full force and effect at least until released from financial requirements or alternate coverage is substituted?

10. Must the owner or operator provide alternate coverage within a defined time period in the event of liquidation or insolvency of the insurer? (federal regulations allow 60 days)

11. Must the insurer give ample notice of its intent to cancel, terminate, or not to renew the insurance?

12. Must cancellation or termination not occur during a defined time period following the date of receipt of the notice by the Regional Administrator or State Director? (federal regulations require 60 days for cancellation and 30 days for termination)

EQUIVALENCY CRITERIA FOR FINANCIAL TEST FOR LIABILITY COVERAGE

EPA will consider the following factors in determining whether a state-required financial test for liability coverage is "equivalent" or "substantially equivalent" to the financial mechanisms prescribed in the federal regulations. As a general rule, most, if not all of the following questions must be answered "yes" for the state-required financial test for liability coverage to be considered "equivalent" or "substantially equivalent."

1. Must the owner's or operator's financial statements be independently audited?

2. Does the independent public accountant have to be certified by a State Board of Accountancy?

3. Are the financial test criteria at least as stringent as the federal RCRA criteria?

   A. Do bond ratings of the firm have to be at least investment grade; or does net working capital have to be at least six times the amount aggregate liability requirements?

   B. Does the tangible net worth of the firm have to be at least $10 million and at least six times the annual aggregate liability requirements?

   C. Do assets in the United States amount to at least

      i) 90 percent of total assets, or
      ii) six times the annual aggregate liability requirements?

4. Are firms whose financial statements have received adverse opinions or disclaimers of opinions disallowed from the financial test?

5. Is the Regional Administrator or State Director granted discretion to accept or reject qualified opinions on a firm's financial statements?

6. Must evidence of insurance be provided in a specified period if a notice of disallowance has been issued because of an adverse, qualified, or disclaimer of opinion? (federal regulations allow up to 30 days.)

7. Must the financial test criteria cover -- exclusive of legal defense costs -- at least (1) $1 million coverage per occurrence, with an annual aggregate amount of $2 million, for sudden accidental occurrences?; (2) $3 million coverage per occurrence, with an annual aggregate amount of $6 million, for nonsudden accidental occurrences?; and (3) all closure or

post-closure cost estimates of facilities not covered by third party guarantees or funded mechanisms? (federal regulations require the inclusion of facilities covered by the financial test, the corporate guarantee, and facilities without any coverage at all.)

8. For sudden accidental occurrences, must the financial test criteria be satisfied before initial receipt of waste by new permitted facilities?

9. For nonsudden occurrences, must coverage be demonstrated by the following dates depending on the sales or revenues of the owner or operator?

(a)	Sales or revenues over $10 million	January 15, 1983
(b)	Sales or revenues greater than $5 million and up to $10 million	January 15, 1984
(c)	Sales or revenues $5 million and less	January 15, 1985

10. Must the owner or operator completely satisfy the test criteria at least until released from financial requirements or alternate coverage is substituted?

11. Must the owner or operator submit updated financial test information a short time after the close of the firm's fiscal year? (federal regulations allow up to 90 days.)

12. If the year-end financial statements indicate the firm no longer qualifies to use the financial test, must the owner or operator supply evidence of liability insurance within a limited period? (federal regulations allow up to 90 days.)

EQUIVALENCY CRITERIA FOR STATE ASSUMPTIONS OF RESPONSIBILITY

EPA will consider the following factors in determining whether a state's assumption of responsibility for an owner's or operator's closure, post-closure care, or liability coverage is "equivalent" or "substantially equivalent" to the financial mechanisms prescribed in the federal regulations. As a general rule, most, if not all, of the following questions must be answered "yes" for the state's assumption of responsibility to be considered "equivalent" or "substantially equivalent."

1. Does the letter from the State include, or have attached to it, identifying information for the facilities and the amounts of funds for closure, or post-closure care, or liability coverage that are guaranteed by the State?

2. Is the assumption [illegible] responsibility **non-contingent** and **irrevocable**; in other word[illegible] there no conditions which would void the state's guarantee?*

3. Does the assumption [illegible] the costs of all activities required for proper closure?

4. Does the assumption cover the costs of all activities required for post-closure care for a period of thirty years?

5. Does the assumption provide liability coverage for bodily injury in at least the amounts required by federal standards per occurrence and in an annual aggregate, exclusive of legal defense costs?

6. Does the assumption provide liability coverage for property damage in at least the amounts required by federal standards per occurrence and in an annual aggregate, exclusive of legal defense costs?

7. Does the assumption provide liability coverage in the amounts required by federal standards for sudden accidental occurrences?

8. Does the assumption provide liability coverage for landfills, surface impoundments, and land treatment facilities in the amounts required by federal standards for non-sudden accidental occurrences?

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* Note: The Agency is aware of some state post-closure funds that are available only to owners or operators of facilities that have been issued permits under RCRA; these funds would not be non-contingent with respect to interim status or non-permitted facilities.

APPENDIX C

Appendix C is a list of all changes made to the Federal hazardous waste regulations (40 CFR Parts 260-25, 270 and 124) since May 19, 1980. All States applying for final authorization should consult this list in addition to the May 19, 1980 regulations.

The column marked, "Effect of Change," assesses the effect of each change to determine whether the change is one that a State must include when it is applying for authorization. Where the effect of a particular change in the Federal program is a reduction in stringency, States need not reflect the change in their own programs. The following key explains the meaning of the numbers in this column:

1 = less stringent than original regulations
(State program changes optional)

2 = more stringent than original regulations
(State programs must be equivalent)

3 = explanatory change, e.g., expansion of original
(State program changes optional)

40 CFR Reference		Date of Modification, Revision, Change, etc.	FR Page No.	Effect of Change	Comments
PART 260 - HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL					
260.10	(a)	10/30/80	45 FR 72028	3	
		11/17/80	45 FR 76075	2	
		11/19/80	45 FR 76630	2	
		11/31/80	45 FR 86968	2	
		1/09/81	46 FR 2348	3	
		5/20/81	46 FR 27476	3	
		3/04/82	47 FR 9339	3	
		7/26/83	47 FR 32349	1	
		1/19/83	48 FR 2511	3	
260.11		7/07/81	46 FR 35247	2	Original
	(a)	9/21/81	47 FR 41562	1	
PART 261 - IDENTIFICATION AND LISTING OF HAZARDOUS WASTE					
261.3	(a)(2)	11/17/81	46 FR 56588	1	
261.4	(c)	10/30/80	45 FR 72028	1	Original
	(b)(6)	10/30/80	45 FR 72037	1	
	(b)(6),(7)	11/19/80	45 FR 76620	1	
	(b)(8)	11/25/80	45 FR 80287	1	
	(c)	12/04/80	45 FR 80287	1	
	(b)(7),(8),(9)	5/20/81	46 FR 27476	3	
	(d)	9/25/81	46 FR 47429	1	
261.5		11/19/80	45 FR 76623	3	
	(c)(1)&(2)	5/20/81	46 FR 27476	3	
261.6	(a),(a)(3),(b)	9/09/81	46 FR 44973	1	
	(b)	1/20/83	48 FR 2530	3	
261.7		11/25/80	45 FR 78529	1	
	(b)(1)	8/18/82	47 FR 36092	3	
261.21	(a)(1)	7/07/81	46 FR 35247	3	
261.22	(a)(1)&(2)	7/07/81	46 FR 35247	3	
261.30	(d)	11/12/80	45 FR 74892	3	
261.31		7/16/80	45 FR 47833	2	
		11/12/80	45 FR 74890	1	
		1/16/81	46 FR 4617	1	
		5/20/81	46 FR 27477	1,3	

40 CFR Reference	Date of Modification Change, Revision, etc.	FR Page No.	Effect of Change	Comments
261.32	7/16/80	45 FR 47833	1	
	10/30/80	45 FR 72039	1	
	11/12/80	45 FR 74891	1	
	1/16/81	46 FR 4618	2	
	5/20/81	46 FR 27476	1	
261.33	11/25/80	45 FR 78529 & 41	3,1	Heading and (c) revised
(c),(d),(e),(f)	5/20/81	46 FR 27477	3,1	
Appendix II	10/30/80	45 FR 72041	3	
	7/07/81	46 FR 35247	3,1	
Appendix III	7/07/81	46 FR 35248	3	
	4/08/83	48 FR 15256	1	
Appendix VII	7/16/80	45 FR 47834	2	
	11/12/80	45 FR 74892	2,3	
	1/16/81	46 FR 4619	2	
	5/20/80	46 FR 27477	1	
Appendix VIII	7/16/80	45 FR 47834	3	
	11/12/80	45 FR 74892	3	
	5/20/81	46 FR 27477	1	
	6/03/81	46 FR 29708	1	

PART 262 - STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

40 CFR Reference	Date of Modification Change, Revision, etc.	FR Page No.	Effect of Change	Comments
262.10 (f)	12/31/80	45 FR 86970	3,2	
(b)	1/11/82	47 FR 1251	3	
(d)	4/1/83	48 FR 14146	3	
262.11 (a)	11/19/80	45 FR 76624	1	
262.12	12/24/80	45 FR 85022	3	
	2/13/81	46 FR 12207	3	
262.21	3/04/82	47 FR 9340	1	
262.23 (c),(d),+(note)	12/31/80	45 FR 86973	3	
262.34 (a)(1)	11/19/80	45 FR 76626	1	
	1/11/82	47 FR 1251	1	
262.40 (b)	1/28/83	48 FR 3982	2	
262.41	1/26/81	46 FR 8395	1	
	2/23/82	47 FR 7842	1,3	
	1/28/83	48 FR 3981	2	

40 CFR Reference		Date of Modification Change, Revision, etc.	FR Page No.	Effect of Change	Comments
262.50	(b)(3),(d)	3/04/82	47 FR 9340	3	
	(b)(1)(iii)	3/29/83	48 FR 13027	1	
262.51		11/25/80	45 FR 78529	3	
Appendix II		3/04/82	47 FR 9340	2	Manifest form
		1/28/83	48 FR 3982	2	
PART 263 - STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE					
263.10	(c)(2)	12/31/80	45 FR 86968	1	
263.11		12/24/80	45 FR 85022	3	
		2/13/81	46 FR 12207	3	
263.12		12/31/80	45 FR 86968	1	
		4/1/83	48 FR 14294	3	
263.20	(e),(f)	12/31/80	45 FR 86973	1,3	
263.22	(b),(c),(d),(e)	12/31/80	45 FR 86973	3,1	
PART 264 - STANDARDS FOR TSDF'S					
264.1	(g)(6)	11/17/80	45 FR 76075	1	Original
	(g)(7)	12/31/80	45 FR 86968	1	
	(g)(8)	11/19/80	45 FR 76630	1	
	(g)(10)	2/25/82	47 FR 8306	1	
		3/09/82	47 FR 10006	3	Corrects all above numbers
	(c)	4/1/83	48 FR 14294	3	
	(d)	4/1/83	48 FR 14294	3	
	(e)	4/1/83	48 FR 14294	3	
	(f)	4/1/83	48 FR 14294	3	
	(g)(8)	1/19/83	48 FR 2511	2	
264.3		4/1/83	48 FR 14294	3	
264.10		1/12/81	46 FR 2848	3	
	(b)	1/23/82	46 FR 7678	3	Original
	(h)	7/26/82	47 FR 32349	1	
264.12	(c)	4/1/83	48 FR 14294	3	
264.13	(b)(3)	1/12/81	46 FR 2848	2	

40 CFR Reference		Date of Modification Revision, Change, etc.	FR Page No.	Effect of Change	Comments
	(b)(6)	1/12/81	46 FR 2848	2	Original
	(b)(6)	1/23/81	46 FR 7678	2	
	(a)(1)	4/1/83	48 FR 14294	3	
264.14		1/12/81	46 FR 2848	3	
	(a)(2)	4/1/83	48 FR 14294	3	
264.15	(b)(4)	1/12/81	46 FR 2848	2	
	(b)(4)	1/23/81	46 FR 7678	3	
	(b)(4)	7/26/82	47 FR 32351	3,1	
	(b)(4)	4/1/83	48 FR 14294	3	
264.16	(a)	1/12/81	46 FR 2848	3	
	(a)(1)	4/1/83	48 FR 14294	3	
264.17		1/12/81	46 FR 2848	1	Original
264.18		1/12/81	46 FR 2848	1	Original
	(b)(1)	7/26/82	47 FR 32351	3,1	
		4/1/83	48 FR 14294	3	
264.32	(d)	4/1/83	48 FR 14294	3	
264.35		4/1/83	48 FR 14294	3	
Subpart C - Preparedness and Prevention					
264.36		1/12/81	46 FR 2849	1	
264.52		5/20/81	46 FR 27480	3	
264.71	(c)	12/31/80	45 FR 86970	2	Original
	(b)	12/31/80	45 FR 86974	3,1	
264.73	(b)(2),(3),(4),(5),(6),(7),(8)	1/12/81 &	46 FR 2849	3,2	Read as package
		1/23/81	and 7678	3,2	Read as package
	(b)(6)	7/26/82	47 FR 32349	3	
264.75	(e),(f),(g),(h)	1/12/81	46 FR 2849	3,2	
		1/26/81	46 FR 8395	1,3	Suspends §
		2/23/82	47 FR 7842	1,3	Reimposes §
		1/28/83	48 FR 3982	2	
264.76		1/28/83	48 FR 3982	2	

40 CFR Reference	Date of Modification Change, Revision, etc.	FR Page No.	Effect of Change	Comments
264.77 (b) & (c)	1/12/81	46 FR 2849	3	Original
	7/26/82	47 FR 32349	3	Revises section
	1/28/83	48 FR 3922	3	
Subpart F - Ground-water Protection				
264.90 - 264.100	7/26/82	47 FR 32350-32356	1	New
264.93 (c)	4/1/83	48 FR 14294	3	
264.94 (c)	4/1/83	48 FR 14294	3	
Subpart G - Closure and Post Closure				
264.110 - 264.120	1/12/81	46 FR 2849	1	New
264.112	1/23/81	46 FR 7678	3,1	
	4/1/83	48 FR 14294	3	
264.113	4/1/83	48 FR 14294	3	
264.118 (a)	4/1/83	48 FR 14294	3	

Note: On July 26, 1982 @ 47 FR 32356-57, the following Subpart G Sections were revised, and should be noted when applying for Phase II:

264.110(b); 264.112(a) intro text, and (a)(1);
264.117(a)(1)(i) and (ii); and 264.118(a), intro
text, (a)(1), (a)(2)(i) and (ii).

Subpart H - Financial Requirements

Note: On April 7, 1982 @ 47 FR 15047 et. seq., all of Subpart H was revised, with the exception of 264.147, which was revised April 16, 1982 @ 47 FR 16554. Although these changes are not required to be included by Phase II A and B applicants, it is suggested that they adopt these revisions.

In addition to the April 7 and 16 major revisions, other changes to Subpart H occurred as follows:

40 CFR Reference	Date of Modification Change, Revision, etc.	FR Page No.	Effect of Change	Comments
264.142 (a)	7/26/82	47 FR 32357	3	
264.144 (a)	7/26/82	47 FR 32357	3	
264.145	7/26/82	47 FR 32357	3	

40 CFR Reference	Date of Modification Change, Revision, etc.	FR Page No.	Effect of Change	Comments
264.147	7/01/82	47 FR 28627	3	
(g)	7/13/82	47 FR 30447	3,1	New
(g)	7/13/82	47 FR 3047	3	
264.151 (g)	4/27/82	47 FR 17989	3	

Subpart I - Containers

264.170-264.178	1/13/81	46 FR 2866	1	
264.175	11/10/81	46 FR 55112	1	

Subpart J - Tanks

264.190-264.199	1/13/81	46 FR 2867	1	
264.191	7/07/81	46 FR 35249	1	
264.198 (b), and comment	7/07/81	46 FR 35249	3	

Subpart K - Surface Impoundments

264.220-264.230 Originally promulgated 1/12/81 @ 45 FR 2868, the regulations were superseded in toto on July 26, 1982 (effective January 26, 1983) @ 47 FR 32357. For explanation of applicability, refer to the preamble to the July 26, 1982, Federal Register (47 FR 32379).

Subpart L - Waste Piles

264.250-264.258 Originally promulgated 1/12/81 @ 46 FR 2870, the regulations were superseded in toto on July 26, 1982 (effective January 26, 1983) @ 47 FR 32357. For explanation of applicability, refer to the preamble to the July 26, 1982, Federal Register (47 FR 32379).

Subparts M - Land Treatment

264.270-264.282 were promulgated on July 26, 1982 @ 47 FR 32361.

264.272 (b)	4/1/83	48 FR 14294	3	

Subpart N - Landfills

264.300 - 264.316 were promulgated on July 26, 1982 @ 47 FR 32365.

40 CFR Reference	Date of Modification Change, Revision, etc.	FR Page No.	Effect of Change	Comments
Subpart O - Incinerators				
264.340-264.351	Originally promulgated 1/23/81 @ 46 FR 7678. These regulations were substantially amended on June 24, 1982 @ 47 FR 27532 et. seq., as noted below:			
264.340 (b),(c)	6/24/82	47 FR 27532	1	
(c)	4/1/83	48 FR 14294	3	
264.341 (a)	6/24/82	47 FR 27532	3	
(a)	4/1/83	48 FR 14294	3	
264.342 (b)(2)	4/1/83	48 FR 14294	3	
264.343 (b),(c)	6/24/82	47 FR 27532	1,3	
(d)	4/1/83	48 FR 14294	3	
264.344	6/24/82	47 FR 27532	3	New Section
	4/1/83	48 FR 14294	3	
264.345	6/24/82	47 FR 27532	3	
264.347	6/24/82	47 FR 27532	2,3	
Appendix V	1/12/81	46 FR 2872	3	
Appendix VI	1/12/81	46 FR 2872	3	
Appendix VI	11/23/81	46 FR 57285	3	
Appendix VI	1/08/82	47 FR 953	3	
PART 265 - INTERIM STATUS STANDARDS FOR TSDF'S				
265 (General)	5/21/80	45 FR 34255	3	
	1/30/81	46 FR 10911	3	
265.1 (c)(10)	11/17/80	45 FR 76075	1	Original
(c)(11)	11/19/80	45 FR 76630	1	Original
(c)(10)	12/31/80	45 FR 86968	1	Original
	5/20/81	46 FR 27480	3	(c)(10) becomes (c)(12)
(c)(13)	2/25/82	47 FR 8306	1	
	3/09/82	47 FR 10006	3	
	4/1/83	48 FR 14295	3	
(c)	1/19/83	48 FR 2511	3	

40 CFR Reference		Date of Modification Change, Revision, etc.	FR Page No.	Effect of Change	Comments
265.12		4/1/83	48 FR 14295	3	
265.52	(b)	5/20/81	46 FR 27480	3	
265.71	(c)(1)thru(5)	12/31/80	45 FR 86970	3	Original
	(b)	12/31/80	45 FR 86974	3	
265.73	(b)(3)	1/23/81	46 FR 7680	3	
265.75		1/23/81	46 FR 8395	1,3	
		2/23/82	47 FR 7842	1	
		1/28/83	48 FR 3982	2	
265.76		1/28/83	48 FR 3982	2	
265.77		1/28/83	48 FR 3982	2	
265.90	(e)	2/23/82	47 FR 7842	2	
265.93	(a)	2/23/82	47 FR 7842	1	
265.94	(a)(2)(i)	2/23/82	47 FR 7842	1	
		1/28/83	48 FR 3982	2	

Subpart G - Closure and Post-Closure

265.110 - 265.220		1/12/81	46 FR 2875	2,3	Section revised
265.147		4/1/83	48 FR 14295	3	
	(a)(1)(i)	7/1/82	47 FR 28627	3	
	(b)(1)(i)	7/1/82	47 FR 28627	3	
	(b)(5)	7/1/82	47 FR 28627	3	
	(c)	7/1/82	47 FR 28627	3	
	(d)	7/1/82	47 FR 28627	3	
	(f)(3)-(6)	7/1/82	47 FR 28627	3	
	(g)	7/13/83	47 FR 30447	3	

Subpart H - Financial Requirements - Some changes were made between 5/19/80 and 4/17/82. These are not included here, since all of Subpart H, Financial Requirements was revised and rewritten as of 4/7/82 @ 47 FR 15064 - 15074 (40 CFR 265.140-150). Liability Requirements (§265.147) were issued 4/16/82 @ 47 FR 16559-16561).

Subpart J - Tanks

265.198	(b)	7/07/81	46 FR 35249	1	

40 CFR Reference	Date of Modification Change, Revision, etc.	FR Page No.	Effect of Change	Comments
Subpart K - Surface Impoundments				
265.222	7/26/82	47 FR 32387	3	Original
265.228	7/26/82	47 FR 32387	3,2	Original
265.229	7/26/82	47 FR 32387	3	Original
Subpart L - Waste Piles				
265.253 (b)(and comment)	7/07/81	46 FR 35249	1	
(a),(c)	7/26/82	47 FR 32367	1,3	
265.258	7/26/82	47 FR 32367	2	Original
Subpart M - Land Treatment				
265.272 (b),(c),(d)	7/26/82	47 FR 32368	3,2	
(e)	7/26/82	47 FR 32368	2	Original
265.276	7/26/82	47 FR 32368	2	
	4/1/83	48 FR 14295	3	
265.279	7/26/82	47 FR 32368	3	
265.280 (c),(d),	7/26/82	47 FR 32368	3,2	
(e),(f)	7/26/82	47 FR 32368	2	Original
265.281	7/26/82	47 FR 32368	3,2	
Subpart N - Landfills				
265.302 (a),(b),(c)	7/26/82	47 FR 32368	3,2	
265.310	7/26/82	47 FR 32387	2	
265.312	7/26/82	47 FR 32368	3,2	
265.314 (b),(c)	3/22/82	47 FR 12318	3,2	
(a)(1)	7/26/82	47 FR 32368	3,2	
265.315	7/26/82	47 FR 32387	1	
265.316	11/17/81	46 FR 56595		Original
	1/15/82	47 FR 2316	1	

40 CFR Reference	Date of Modification Change, Revision, etc.	FR Page No.	Effect of Change	Comments

Subpart O - Incinerators

The May 19, 1980 regulations were revised *in toto* January 23, 1981 (46 FR 7680). All revisions cited here are to the January 23 FR.

265.340 (b)	6/24/82	47 FR 27533	1	
265.347 (b)	6/24/82	47 FR 27533	1	
Appendix II	1/28/83	48 FR 3982	2	

PART 122 - PERMITTING REQUIREMENTS

Note: On April 1, 1983, all Part 122 requirements were recodified to Part 270. (See 48 FR 14146).

122.3	7/21/80	45 FR 48620	3	Definitions
	10/15/80	45 FR 68391	1	
	11/17/80	45 FR 76075	3	
	11/19/80	45 FR 76630	2	
	12/31/80	45 FR 86968	2	
	1/09/81	46 FR 2348	3	
	8/27/81	46 FR 93160	3	
	2/03/82	47 FR 4996	3	
	1/19/83	48 FR 2512	3	
122.4 (b)	11/10/80	45 FR 74490	3	
(d)(7)	4/08/82	47 FR 15306	1,3	
122.6	8/06/80	45 FR 52149	3	
122.7 (c),(h),(i)(1)	4/08/82	47 FR 15307	3,1	
122.10 (a)	10/15/80	45 FR 68391	1	
(a)(4)	2/03/82	47 FR 4996	1	
(b)	7/26/82	47 FR 32369	3,1	
122.11 (c)	2/13/81	46 FR 12433	3	
(c)	9/25/81	46 FR 47433	3	
122.15 (a)(7)	1/12/81	46 FR 2888	3,2	Original
(a)(7)(iv) thru (viii)	7/26/82	47 FR 32369	2	Original

40 CFR Reference		Date of Modification Change, Revision, etc.	FR Page No.	Effect of Change	Comments
122.16	(a)	8/27/81	46 FR 43160	3	
122.17	(f)(3)	6/24/80	45 FR 42512	3	Adds UIC
	(e)	1/12/81	46 FR 2889	3	
	(f)(1)	8/27/81	46 FR 43160	3	
	(e)(3),(4),(5)	6/24/82	47 FR 27533		
	(e)(6),(7),(8)	7/26/82	47 FR 32369	3	
122.18	(c)(4)(ii)	6/24/80	45 FR 42511	1	
	(c)(3)	1/28/83	48 FR 3983	2	
122.19	(d)	4/08/82	47 FR 15307	1	
122.20		7/07/81	46 FR 35249	3	Original
	(a)	9/21/82	47 FR 41563	3	
122.21	(d)(2)(vi)	11/17/80	45 FR 76075	1	Original
	(d)(3)	11/19/80	45 FR 76630	1	Original
	(d)(2)(vii)	12/31/80	45 FR 86968	1	Original
	(d)(2)(viii)	2/25/82	47 FR 8306	1	Original
	(d)(2)(viii)	3/09/82	47 FR 10006	3	
	(d)	7/26/82	47 FR 32396	3,2	
	(d)(4)	7/26/82	47 FR 32396	1,3	
122.22	(a)(1),(2),(3)	11/19/80	45 FR 76635	3,1	
122.23	(a)(1)	11/19/80	45 FR 76636	3,1	
		12/10/81	46 FR 60446	3	
122.25	all	1/12/81	46 FR 2889	2,3	
	(b)(5)	1/23/81	46 FR 7681	2	Original
	all	7/07/81	46 FR 35249	1,3	
	(b)(1),(i),(ii),(iii), (b)(4)	11/06/81	46 FR 55113	3	
	(b)(5)	6/24/82	47 FR 32369	3,2	
	(a)(5),(13), (b)(3),(4),(6),(7) (c)	7/26/82	47 FR 32369	3,2	Land Disposal Part B
122.26	(a)(3)(v)	1/28/83	48 FR 3983	2	
	(b)(3)(v) & (vi)	1/28/83	48 FR 3983	2	
122.27		1/23/81	46 FR 7681	2	Original
		7/07/81	46 FR 35249	3	
		6/24/82	47 FR 27533	3	
		7/26/82	47 FR 32372	2	

40 CFR Reference	Date of Modification Change, Revision, etc.	FR Page No.	Effect of Change	Comments
122.28(e)(3)	1/28/83	48 FR 3983	2	
122.29	1/12/81 9/25/81	46 FR 2892 46 FR 47433	3 3	
PART 124 - PERMITTING PROCEDURES				
124.3 (b)	8/07/80	45 FR 52748	1	
124.5	8/07/80	45 FR 52748	1	
124.10 (b)(1), (c)(1),(2)	7/15/81	46 FR 36706	2	Reflects 1980 RCRA amendment to §7004(b)
124.12 (a)	7/15/81	46 FR 36706	2	Reflects 1980 RCRA amendment to §7004(b)
124.16 (a)(1)	4/08/82	47 FR 15307	3	